LSEG Response to Financial Advice Market Review

08 January 2016

1.0. Introduction

London Stock Exchange Group (LSEG) welcomes the FCA and HM Treasury's consultation into how financial advice can work better for consumers and the broad scope and definition of advice adopted for this Review.

As an operator of FCA-regulated markets, LSEG does not give advice to consumers. However we strongly believe that, as part of the broader definition of advice, greater information and education on market structure, differing types of products, and how to participate in financial markets, should be made more widely available to current and potential retail investors. This will help them make informed decisions regarding their savings and investments and to create a stronger and more balanced savings and investment culture in the UK.

LSEG believes that increasing access for retail investors to capital markets will support the real economy and Government's aim to boost UK productivity, growth and job creation. The Government has placed a strong focus on increasing the supply of long term patient equity and debt investment needed by high growth UK businesses. Creating a greater culture of investment in the UK with more retail investors has significant potential to provide more capital for high growth business and give citizens a long-term stake in the UK economy. Increased retail access also has the benefit of improving the liquidity and diversity of the secondary trading market, which in turn would lower the cost of non-bank capital for high growth companies.

We believe that it is important that consumers have access to fair and balanced advice on the most cost-effective means to access collective investment vehicles. The advisory community needs to be appropriately informed about the full range of options available to their clients and related benefits and risks. For example, on many measures exchange-traded funds (ETFs) will often provide a more cost-effective means of securing a preferred investment exposure (e.g. to UK or international equities or fixed income) than other investment vehicles.

LSEG also welcomes, where appropriate, the development of low-cost routes to advice using new technologies and online wealth management services e.g. robo-advice subject to there being proper regulatory safeguards in place.

2.0. Creating an investment culture in the UK and supporting retail investors

UK household participation in capital markets

- **12%** of households own UK Shares
- **7%** of households have employee shares and share options
- **10%** of householders have fixed term bonds
- **2.6m** stocks and shares ISAs were subscribed to in 2014-15

Source: ONS December 2015 and HMRC August 2015

LSEG believes that it is important that private investors have access to high quality information that educates potential and current investors in order to provide them with the ability to invest and participate in markets.

A strong, liquid and vibrant public market relies on informed participation by both individual retail investors alongside institutional investors. Investors need to be informed not just about the investment opportunities but also the different means of accessing those opportunities (for example choice in trading model, the use of collective investment vehicles).

The Government has placed a strong focus on increasing the supply of long term patient equity and debt investment needed by high growth UK businesses. Creating a greater culture of investment in the UK with more retail investors has significant potential to provide more capital for high growth business and give citizens a long-term stake in the UK economy. Increased retail access also has the benefit of improving the liquidity and diversity of the secondary trading market, which in turn would lower the cost of non-bank capital for high growth companies.

Consumers can currently invest in financial markets as individuals through private client stock brokers (including through direct market access via a small number of brokers), through employee share schemes or collective investment schemes. At the end of 2014, UK individuals owned an estimated 12% of quoted UK shares by value, according to ONS data. This is compared to 38% in the US[1].

LSEG is aware that there has been an increasing demand amongst retail investors to become shareholders in some of the larger IPOs as noted by the Wealth Management Association.[2] We are delighted that the Government has a dedicated share sale for retail investors as part of the privatisation of Lloyds Banking Group. We also note that recent changes to freedom and choice in pension savings will likely increase the appetite for more information and education on

[1] Goldman Sachs, 2013
[2] Wealth Management Association/Peelhunt, 2013

investments. We also note that self-directed investment through Self-invested Personal Pensions (SIPPs) has increased.

In November 2015, the Investment Association noted that gross retail sales for UK fund platforms totalled £6.2 billion, representing a market share of 54.3% (52% in November 2014). Other Intermediaries (including Wealth Managers, Stockbrokers, IFAs and Discretionary Fund Managers) attracted gross net retail sales of £4.6 billion, representing a market share of 40.6% (41.2% in November 2014).

3.0. Current education and information gap

We believe that there is a clear gap in investor education for different types of products, market structure and how to participate in markets. According to a 2013 Populus poll, half of British investors did not know how their money was invested. 29% did not know how to access education on financial markets.

A report for the UK Government in 2010 that as of the time of writing, there were 10 million people in the UK over 65, with a projected growth of an additional 5.5 million people over 65 by 2030[3]. Increases in longevity increase the need for financial education to support private investors in planning for later life.

Education plays an important part in aiding investors regarding the costs associated with investing and participating in markets. For example, the tax landscape is often difficult for retail investors to navigate. Stamp Duty is applied to UK stocks. However recent changes to equity taxation include AIM stocks being exempt from Stamp Duty, as well as being able to include

3.1. Case Study: Retail Participation in the Italian Bond Market

Only a limited number of bond offerings are made available through easily accessible channels to retail investors, including UK government bonds. This hampers liquidity in the secondary market and the overall strength of the fixed income market and limits the choice of high quality instruments available retail investment.

Borsa Italiana, part of London Stock Exchange Group, has a healthy percentage of private investor participation, particularly in bonds because of their well developed market infrastructure that provides efficient interaction between investor capital and issuers. LSEG has a significant amount of successful experience in supporting the issuance of “BTP Italias” through the MOT electronic bond platform. The BTP italias are Italian Government inflation-linked securities conceived to meet the needs of retail investors**.** Eight BTP Italia issues have now raised more than €100 billion. The absence of Stamp Duty on the purchase of securities means that private investors who trade on an intraday basis participate in the cash market, rather than the CFD market.

Greater accessibility of these instruments to UK retail investors along with availability of advice would be beneficial.

them in ISAs. Exchange Traded Funds (ETFs) are also free of Stamp Duty. Therefore, for these products the cost of investing is reduced for consumers.

3.2. Adviser training in full range of collective investment vehicles

Advisers in the UK should be trained in the full range of collective investment vehicles available including ETFs and investment trusts following the Retail Distribution Review.

The ETF market in the US provides a strong example of retail participation, the financial advice available and how citizens can invest in capital markets. In the US, it is believed that retail investors own some 50% of US listed ETFs.[4]

ETFs are an efficient and transparent way to provide retail investors exposure to a wide range of major indices for stocks and shares, bonds, commodities and other asset types. ETFs combine the advantages of stocks in terms of tradability and liquidity with the key features of traditional index funds into one product.

ETFs are eligible to be held in an Individual Saving Account (ISA) or a Self Invested Personal Pension (SIPP) and are not subject to UK stamp duty when purchased on-exchange.

All ETFs on London Stock Exchange are supported by dedicated on-screen market makers committed to providing continuous two-way pricing throughout the trading day. Investors can trade in and out of ETFs just as they would with shares.

London Stock Exchange is the largest ETF Exchange in Europe by volume. It has 24 dedicated ETF issuers with a total of 860 securities currently listed. 166 new ETFs were listed in 2015 on LSE.

As the leading exchange for ETFs, London Stock Exchange maintains a strong commitment towards promoting liquidity and transparency across its ETF market.

Investment trusts also are an important part of London's capital raising ecosystem.

They serve as permanent capital vehicles for fund managers and investors to effectively redeem their shares in the trust by selling them on the listed market.

The strength of a permanent capital vehicle is that the fund manager does not have to liquidate positions when investors want to exit as they would have to in an open ended structure. There are 463 investment trusts on LSE worth £110bn split across the Main Market and 29 on the SFM. Investment trust fund raising represents a significant portion of capital raised at IPO in London. In 2015, 25% of all IPO money raised was by investment trusts and in 2014, 16%.

[4] Deutsche Bank 2011

4.0.Possible solutions to address education and information gaps

4.1. LSEG is committed to working in conjunction with a wide variety of stakeholders in the financial community to play our part in providing more information and education to retail investors.

LSEG, for its part, is working to address the education gap in the understanding of products and market structure, LSEG has developed a multi strand educational initiative so that investors are better informed for later life with regards to savings and investments:

- A series of Podcasts has been produced in partnership with Share Radio (a radio station focused on finance) for airing in January 2016. The podcasts will have airplay on the radio station and will also be available on the LSEG website. We have recently provided dedicated analytics on individual stocks available on the LSEG website also.
- In parallel to the factsheets London Stock Exchange ("LSE") produces on trading services for the professional market, a series of factsheets have been produced specifically for private investors and will be available on our website in January 2016.
- A central page on LSE website has been developed to provide an easy start point for private investors to navigate relevant LSE information
- Exchange traded funds and products have a dedicated resource centre on the LSEG website including educational content and videos
- London Stock Exchange Academy operates a number of training programs with UK Universities
- The FTSE website contains an education centre which provides educational content on the structure of indices

4.2. London Stock Exchange currently operates a private client Direct Market Access ("DMA") scheme which enables private investors to participate directly in the central market that resides on London Stock Exchange's electronic order book. Private investors can access DMA services through a bank or stockbroker. We believe there is scope to improve private investor understanding of the DMA model, to ensure that investors can avail of choice in how they access and participate in markets. For example, an electronic order book provides - in certain circumstances - the potential for lower and more advantageous implicit execution costs. London Stock Exchange provides a discounted execution fee of 0.1bps, representing a 78% decrease on the standard value traded scheme rate of 0.45bps which would normally be applicable to retail brokers.

4.3. LSEG also believes that the Government should encourage issuers to reserve a specific tranche for retail investors during IPO and make sure the Review covers the availability of accessible and cost-effective advice for investors looking to participate in these offers**.** Over recent years (and certainly since the Listing Rules were changed to remove the requirement for retail offers) technology and infrastructure has moved on considerably, making it possible for retail offers to be conducted more efficiently. For example, a number of the large online execution only platforms act as distributors, However, market practice has not moved at the same pace, meaning that retail investors are often excluded from IPOs. We would therefore encourage the government to influence market practice and explore the use of incentives to change the default position for issuers in the UK so that IPOs on the Main Market include a voluntary retail tranche.

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7 January 2016

Dear Mr Smith

Virgin Money response to HM Treasury-Financial Conduct Authority *Financial Advice Market Review: Call for input*

Virgin Money welcomes the decision of the Government and Financial Conduct Authority (FCA) to launch the Financial Advice Market Review (FAMR) to examine how financial advice could work better for consumers. We are pleased to provide input on this important topic in response to the Call for input.

We welcome the focus of the FAMR on the key underlying issue of whether an advice gap exists and, if so, whether there are measures on both the demand and supply side which could reduce or eliminate this advice gap and help to ensure better outcomes for consumers. We value the Call for input's clear and thoughtful comments on advice, its assessment of the demand for, and supply of advice, and where imbalances between the two may lead to advice gaps. We also welcome its consideration of how these gaps might be bridged.

We note that the Call for input generally uses the word 'advice' to capture a broad range of services offering support to consumers – ranging from holistic or focused face-to-face professional advice at one end of the spectrum, to tools to facilitate financial decision-making, such as online tools and calculators and relevant information, at the other end of the spectrum.

Our key points in relation to the Review are as follows:

- *Advice should help consumers understand products and services, as well as financial outcomes* – We think advice should focus to a greater extent on how financial products and services work, the options they offer, and how they can provide good outcomes for consumers. This will help to equip consumers to make more effective decisions about their future financial arrangements.

- *A clearer regulatory distinction between regulated advice and information could help to address the advice gap experienced by some consumers* – More clarity about the regulatory perimeter could stimulate the development of a broader market in free or lower cost online services that offer people the information and support they require. This would benefit those with limited amounts to invest for whom professional advice may be unaffordable.

- *Less complex financial products could also help to overcome the advice gap and encourage consumers to engage with financial services* – Products that are easy to identify, understand and purchase could, in combination with greater access to online tools and information, reduce people's need for professional advice, and give them greater confidence to navigate financial services markets and make financial decisions.

I set out below some comments on issues that correspond to the three main chapters in the Call for input.

1. What do consumers need and want from financial advice?

In the context of this broad review of financial advice, we believe that there are several areas where the provision of advice, as defined by the Review, could be improved:

- We believe that the advice process has focused too much on gathering information about customers and their needs, rather than on explaining the features of products and how they can provide good outcomes for consumers. We think this reflects, at least in part, the increasing complexity of financial products and services. In relation to mortgage advice, in *Embedding the Mortgage Market Review: Advice and Distribution*, the FCA said that, "The rules focus on ensuring that customers obtain a mortgage suitable for their needs and circumstances. They do not require firms to ensure customers understand the advice they receive or the reasons for recommendations made to them".

- We support the recommendation of the Retail Distribution Review (RDR) that advice should be remunerated through fees paid by customers rather than through commissions paid by providers. However, we think that there is a need for greater clarity, under Mortgage Market Review (MMR) arrangements, about fees for advice. This is because whilst many consumers are likely to seek advice (as broadly defined) on such products, the level of fees needed to cover the costs of face-to-face personalised advice may well not be affordable by many consumers with relatively low incomes and assets.

- As recognised on pages 15 to 18 of the Call for input, the provision of traditional face-to-face advice may well be limited not only by the costs of providing it, but also because of financial and reputational risks that are linked to the potential liabilities associated with customer redress and sanctions for mis-selling. Providers may be concerned, for example, about the possibility of the FCA using the benefit of hindsight when imposing sanctions for what it perceives to have been mis-selling, when there was no intention to deceive or mislead.

  More generally, regulatory uncertainty can encourage 'tick-box compliance' and could discourage innovation and limit competition in the advice market. We support the Government's request, in *Fixing the foundations: creating a more prosperous nation*, that the PRA and the FCA should "set out clearly the steps being taken to drive more competition and innovation".

- Developments in technology make it much easier for many consumers to access information about financial services, in the way that they do for other aspects of their lives. As recognised in the FCA Consultation Paper *Smarter consumer communications*, the inclusion of videos, illustrations and interactive features can enhance consumer engagement, understanding and empowerment.

  A clear indication of how the behaviour of consumers has already changed was given in the ESRO research on mortgages, which found that "online research is particularly key for all mortgage buyers" and that "online mortgage calculators are a vital part of this process". However, a specific issue that the Review may wish to consider is that the provision of information online may well have been inhibited by concerns, resulting from the final proposals for the Mortgage Market Review (MMR) in FSA CP11/31, that all sales involving some form of interactive dialogue would be deemed as advised sales and that online services using algorithms might be deemed as steering consumers and so as providing advice.

2. What are the advice gaps?

We concur with the assessment of advice gaps on pages 18 to 20 of the Call for input with respect to particular retail financial products and particular consumer groups. In particular, we agree that:

- there do not seem to be advice gaps in deposits, general insurance, credit products (except when debts become unmanageable) or in mortgages;

- individuals may find it difficult to access the advice they need in relation to savings for retirement, whether through pensions or otherwise, and options at retirement. We support the view that people considering taking cash payments instead of pensions should have to seek advice before making such a decision, unless the amounts are de minimis; and

- whilst wealthier consumer groups are more likely to seek and to be able to afford professional advice, there may be advice gaps for people with limited incomes and limited savings, for whom the cost of individual or professional advice may well be unaffordable.

We also note a number of trends in the advice market which are based upon our experience in those parts of the retail market where we are particularly active:

- In relation to investments and pensions, there has been a clear move away from servicing mass market customers with modest sums to invest following the introduction of the Retail Distribution Review (RDR). This has meant that, for many of these customers, high quality advice has become increasingly inaccessible, which could be a cause for concern given the increasing complexity of many investment and pensions products.

- In relation to mortgages, by contrast, there has been a marked shift towards the provision of advice. The MMR has led to a polarisation between advised and execution-only sales, and the regime encourages consumers to take the advice route. It also limits their ability to gain access to information – a result of the MMR's view that information provided in an interactive conversation (whether face-to-face or online) may be deemed advice, meaning that providers must guard against the possibility that, by providing limited information or information without regulated advice, they may become liable to the possibility of fines for mis-selling.

We therefore support the intended initial focus of the FAMR on investments, saving into a pension and taking an income in retirement, and on consumers with lower levels of income and wealth – defined by the FCA in the Call for input as "consumers with some money, but without significant wealth" – for whom personalised face-to-face advice is not likely to be affordable.

However, we suggest that other priorities should include ensuring that the regulations relating to advice do not create 'information gaps', and that the advice process for mortgages is reviewed as part of the FCA's consideration of competition in the mortgage sector.

In addition, we think the Review is an important opportunity to consider the current regulatory framework for financial advice in its generality. At present, the framework consists of a complex set of overlapping regulations and legislation, designed by different bodies at different times – better aligning these rules, where there is scope to do so, would give providers of advice more clarity, and help to encourage broader provision of advisory services.

3. What options are there to close the advice gap?

Pensions and related investments

For many people, the benefits of getting advice on savings plans, pension options at retirement, cash alternatives versus pensions and compliance with Lifetime Allowance regulations should justify the cost of personalised face-to-face advice. We think that the individuals providing such advice should be appropriately trained and qualified, and that their firms should be liable to sanctions for failures to comply with the regulation of financial advice.

However, to ensure that there is sufficient supply of advice in these areas to meet the demand for it, we think that the FCA should not unreasonably apply hindsight in assessing possible mis-selling, and should also set a longstop limitation period, or equivalent, after reviewing the options which are discussed on page 29 of the Call for input.

Consumers with lower levels of income and wealth

We believe that many people with limited amounts to invest would benefit from being able to access information and buy financial products in a manner that is convenient and easy and that is economic for them.

We think that consideration should be given to the extent to which such consumers can now get the support they need from online services that are already available or that may soon become available as a result of initiatives in train under the FCA's Project Innovate, such as those mentioned on page 43 of the Call for input.

Such online services can be provided more cheaply than face-to-face advice and, like online services in other areas, are generally available free to consumers. Within such services, interactive features can enable consumers to get information about products that are likely to be suitable for them.

To encourage the development of a broad market in such online services, we think that the providers of these services should not be seen as providing regulated advice and should not be liable to sanctions for mis-selling.

We suggest that the FAMR should consider a clear distinction between what might be called 'generic advice' or 'guidance', provided free by online services with automated interactive facilities, and 'personalised advice' or 'regulated advice', normally subject to fees and liable to redress and sanctions for failure to comply with the regulation of financial advice. If such a distinction is made, we suggest that the different forms of advice should be defined in ways that make sense to consumers, and that are consistent with how they differentiate between information and advice in other aspects of their lives.

Face-to-face advice will remain crucial for many people, particularly those with complex needs, but we think algorithmic methods may, for some consumers, have the potential to provide as good outcomes as traditional methods based on human interaction. We therefore welcome the Review's consideration of how technology-based advice models could meet consumer needs at low cost.

We also think consideration should be given to the potential benefits of some form of standardisation of the fact find process that informs the provision of advice. As well as helping to ensure that providers do not obtain any unfair competitive advantages at this stage in the process, this may also support the ability of customers to access advice and information online rather than face-to-face, if they wish to do so, and to shop around.

We recognise that consumers with lower income and lower amounts to invest may also have lower levels of financial literacy and confidence in terms of purchasing financial products, and therefore may need some protection. We believe that this can be achieved through:

- requiring that all communications with consumers in online services, as otherwise, must comply with Principle 7 of the FCA's Principles for Business by being fair, clear and not misleading;

- the FCA giving positive guidance about its expectations of online services and by its engagement with firms through the 'regulatory sandbox' and 'themed weeks' initiatives that form part of its Project Innovate; and

- giving the FCA the right to examine firms' algorithms for online services, if it wishes to do so, to help address any consumer or market-focused concerns about the use of algorithms in the provision information and advice online.

Simple financial products

Another possible means of encouraging increased participation in financial services by people on low-to-medium incomes is through the provision of simple financial products that are easy for consumers to identify, understand and buy, without the need for 'professional' advice.

Such products might be appropriate, for example, for consumers with limited amounts to invest and/or with straightforward needs, who might otherwise put off engaging with financial services due to the complexity of products and services or the cost and perceived difficulty of seeking advice.

We note that the Call for input discusses previous 'simple product' initiatives, and observes that they have not been as successful as might have been hoped. We supported the Government's efforts in the last Parliament to encourage the introduction of simple financial products, through the Sergeant Review, and think the FAMR is a timely opportunity to review progress in this area within the context of the more holistic review of advice being undertaken.

Provision of information

Whether or not a distinction is made between 'generic advice' and 'personalised advice', we believe that consumers should be able easily to access information that enables them to understand financial products.

The ESRO research on mortgages found that, "Some lenders had adopted a cautious approach to providing information to customers, to mitigate risks of unqualified staff providing regulated advice" and observed that, "There is a risk that these policies will frustrate customers seeking information and discourage them from shopping around". Similarly, the Call for input says that:

While some firms have successfully launched automated and semi-automated models within the current regulatory frameworks, others have reported that they have developed new automated models of advice but have not felt able to take them to market.

We believe that there is a need for greater regulatory clarity on such matters, and that the regulatory approach should be consistent with the Government's request to the PRA and the FCA, in *Fixing the foundations*, that there should be an appropriate balance between, on the one hand, regulation and, on the other hand, competition and innovation.

Mortgage advice

We support the MMR framework under which consumers are encouraged to seek advice, often from an independent adviser. However, the ESRO research on mortgages found that, "Consumers found the mortgage application process to be time-consuming and unnecessarily convoluted". We suggest that, in the context of the FCA's review of competition in the mortgage sector, consideration should be given to making the mortgage advice process work better for consumers.

In this context, we wonder if lessons might be learned from the RDR and whether, instead of the current polarisation between execution-only and advised sales, there might be scope for a middle category of 'assisted sales', for customers. In addition, we suggested in our response to the FCA's recent Call for Inputs on competition in the mortgage sector (which is separately attached) that there should be an online register of independent advisers, and transparency about their business mix and fees, to help consumers identify brokers which meet their needs.

Conclusion

We welcome the Government and FCA's decision to launch this Review and examine where advice gaps exist as well as how they can be addressed. In particular, we welcome the Review's decision to look at the impact of technology on how people engage with financial services products and services.

The increasing complexity of financial services products – including an expanding choice of products, product features and distribution methods – means that ensuring consumers have access to appropriate and affordable advice, and that they understand the value of the different forms of advice that are available to them, is more important than ever.

To this end, we agree with the Review that it is important to look at the full spectrum of advice options, to ensure that they are tailored to the different needs and financial circumstances of consumers. The market in retail financial products will only work well and secure good consumer outcomes where consumers make well-informed choices and, in many cases, this will require that consumers do utilise advice, as broadly defined by the Review.

We view FAMR as an important component of this broader task – namely, creating a retail market that works in the interests of all consumers and which helps restore trust in the sector. We would therefore be happy to support the Review as it continues its work in this area.

Please do not hesitate to contact my colleague Jay Sheth, Virgin Money's Head of Economics, Policy and Public Affairs, on jay.sheth@virginmoney.com if we can be of any further assistance.

Yours sincerely

Richard Hemsley
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Virgin Money

CC: Jennifer Young, Head of FAMR Strategy, HM Treasury

PREQUEL

As you may be aware from our recent meetings with the FCA, The Pensions Portal (TPP) is developing an online educational hub featuring an engaging, accredited, graduated and impartial suite of programmes on the different ways people can take their pension benefits. The site is aimed at consumers and offers a radically different approach to current mass market provision. We ask the question “How many people have watched Pride and Prejudice compared to the number who have read it”? – the answer informs our approach! The TPP media platform is ‘intelligent’ and tracks what visitors on the site have watched. Based on this information the site can offered tailored outputs dependent upon specified contingencies being met by the site visitor. These can include, for example, unlocking more detailed content only when introductory programmes have been viewed. This feature can also allow us to issue certificates – perhaps allowing the holder a benefit such as a free CAB meeting once they have completed their journey. Alternatively, it could be used to issue a ‘product passport’ – perhaps allowing the holder to purchase a safe harbour investment.

TPP’s focus is on engagement and to this end the approach offers flexibility to make it more fun (for example by issuing online badges which show the user’s progress). Furthermore, the content can be adapted to help citizens start very early – in secondary or even primary education. A particular application in this regard could be the awarding of a piggy bank or a particular character on completion of a specified educational journey.

We believe our radical approach could make an enormous and positive difference to those currently unable to afford, who do not value or those insufficiently interested to seek professional advice. It could also help people whose preference is to ‘do it themselves’ by making access to quality and impartial content straightforward. The content will be available 24/7, can be viewed as often as the viewer likes, works on all devices and uses adaptive bit streaming to give the viewer the best possible experience.

Finally, the portal is designed as a ‘plug-in’ as part of a greater offering determined by the site provider. The context can include links to further information/guidance (commercial or state provision) and tools and calculators offered to help the consumer gain a greater understanding of their own situation. A ‘what to do next’ programme and checklist can be included to hold the consumers hand as they take the next step.

Because of our solution we have answered many of the review questions by referencing how our combination of content and technology could impact upon them.

Q1

Do people with protected characteristics under the Equalities Act 2010, or any consumers in vulnerable circumstances, have particular needs for financial advice or difficulty finding and obtaining that advice?

Particular needs for financial advice:-

Through the work I do in my advice business (Mint Wealth Management) I see a lot of confusion in the families of loved ones regarding Long Term Care provision. This is a complex area and there is often a lack of understanding about where to turn to for advice and confusion about the help and support available (in particular where state aid and support can and cannot be claimed). The delay of the Care Act provisions has only added to their problems. Supply of qualified advisers in this area is limited and from my experience families are often initially just looking for clarification of the facts such as type of care, costs, funding/how to pay, state support, benefits and local authority assessment. Demand for advice in this area is growing.

How TPP can help consumers in vulnerable circumstances:-

Mobility – access issues/travel are overcome where there is internet access.

Deaf – transcripts of programmes are provided.

Blind – each programme has a high quality soundtrack.

Language – translations are available and overdubs/subtitles possible.

Elderly/infirm/dementia/Power of Attorney – a good source of information for those to whom responsibility it delegated.

Age, disability, gender reassignment, marriage & civil partnership, race, religion or belief, sex and sexual orientation – no direct impact though content features both men and women's voices recognising the topic is equally important to both sexes.

Literacy – because content is delivered using video and animation it is available to users with reading difficulties.

Q2

Do you have any thoughts on how different forms of financial advice could be categorised and described?

Break this down into the basic needs categories, borrowing, protecting, saving and withdrawing. Borrowing and saving are commonly understood, protection covers life insurance, critical illness cover and income protection and withdrawing is about how to provide income in retirement. In addition, to make it easier, a specific category for the elderly could include long term care, inheritance tax planning and equity release (though all these could fit into the previous four categories).

Q3

What comments do you have on consumer demand for professional financial advice?

Professional advice has limited supply and tends to be used by the wealthy for whom it is economic and who perceive it to represent value for money (often driven by a tax efficiency agenda). There is apathy – not enough education and commentary regarding its value unless you go and look for it, which the majority don't. Many financial solutions require consumers to see several steps forward and join the dot. Solutions can be perceived as and be complex. Another issue is accessibility – where do people go? Banks previously pushed advice but this has largely died out. Advice services have pretty much disappeared from the high street resulting in less awareness.

Q4

Do you have any comments or evidence on the demand for advice from sources other than professional financial advisers?

Growing, particularly with internet savvy consumers for whom websites like TripAdvisor and price comparison sites are natural 'go tos' when thinking about making purchases. Evidence can be sourced by looking at the turnover of the big providers in this space e.g. Moneysupermarket and Moneysavingsexpert. Much of this activity is driven by saving money on a relatively short term commitment – e.g. car/travel insurance.

Q5

Do you have any comments or evidence on the financial needs for which consumers may seek advice?

Pensions, investment, tax and mortgages – but again generally wealthier individuals with more complicated needs.

Q6

Is the FCA Consumer Spotlight segmentation model useful for exploring consumers' advice needs?

It possibly overcomplicates – see answer to Q2 for our view on a more straightforward approach.

Q7

Do you have any observations on the segments and whether any should be the subject of particular focus in the Review?

Our view is the focus should be on how guidance and advice can be made available for all segments by making the solutions accessible, affordable and flexible.

Q8

Do you have any comments or evidence on the impact that consumer wealth and income has on demand for advice?

From experience we would say that demand for advice and the level of wealth are closely correlated. Some larger companies promote, facilitate and sometimes pay for their employees to get advice. Based on my experience with Mint Wealth Management this is a very successful and effective way of broadening access to financial advice. The vast majority of people Mint have advised from sponsored employer initiatives do not have financial problems or difficulties.

Q9

Do you have any comments or evidence on why consumers do not seek advice?

Cost. For example, Mint Wealth Management did an exercise with Staffordshire County Council helping families with members needing long term care advice. Around 95% did not take up the option of advice as they were put off by cost.

Media commentary can be negative and off putting. Bad news travels and miss-selling scandals have fuelled disillusionment with the industry. There are major issues regarding Trust in the industry. As our academic adviser Professor Rosalind Searle says “Trust arrives on foot and leaves on horseback”.

There are problems with accessibility and knowing where to turn – there is a lack of trusted brands in this space.

Q10

Do you have any information about the supply of financial advice that we should take into account in our review?

It is diminishing and tending to focus on wealthier individuals. Where is the new blood coming from? There is an aging demographic in the adviser community.

Q11

Do you have any comments or evidence about the recent shift away from sales based on professional advice, and the reasons for this shift?

Banks withdrawing from the advisory marketplace, high street shop fronts promoting advice have largely disappeared and fewer new advisers are coming through. Training advisers is expensive and can be prohibitively so for smaller practises.

Q12

Do you have any comments or evidence about the role of new and emerging technology in delivering advice?

Chapter 13 (attached) of the July 2015 AKG report on Pensions freedom provides useful evidence.

Q13

Do you have any comments on how we look at the economics of supplying advice?

See previous answers.

Q14

Do you have any comments on the different ways that firms do or could cover the cost of giving advice (through revenue generation or other means)? Do you have any evidence on the nature and levels of costs and revenues associated with different advice models?

A voucher system sponsored by the state to cover an initial consultation could lead to a significant uptake in advice. The issuing of the voucher could be dependent upon meeting criteria which could be determined to the particular individual or type of advice being sort. The voucher could be earned by evidenced participation in pre-advice preparation/education.

Q15

Which consumer segments are economic to serve given the cost of supplying advice?

Based on the FCA segments Stretched but resourceful, Busy achievers, Affluent and ambitious, Mature and savvy and Retired with resources.

In summary those with the ability to pay.

Q16

Do you have any comments on the barriers faced by firms providing advice?

Inability/unwillingness of customer to pay. Cost and resources required to train new advisers, cost of attracting new clients which requires resource and expertise, increasing costs of running a business including levies.

Q17

What do you understand to be an advice gap?

The advice gap is driven by the economics of supply and demand. The cost of supplying advice face to face is significant. Many are not prepared to pay because they don't see the value or do not trust the suppliers. For some there is no value because the amounts of money involved make the cost outstrip the benefit.

As an industry we also need to address the confusion between guidance and advice. For example, the Money Advice Service provides guidance, the Citizens Advice Bureau provide guidance

Q18

To what extent does a lack of demand for advice reflect an advice gap?

See Q17

Q19

Where do you consider there to be advice gaps?

We think the FAMR document covers this well.

Q20

Do you have any evidence to support the existence of these gaps?

We think the FAMR document covers this well.

Q21

Which advice gaps are most important for the Review to address?

Retirement decumulation and followed by pension accumulation.

Q22
Do you agree we should focus our initial work on advice in relation to investing, saving into a pension and taking an income in retirement?

Yes.

Q23

Do you agree we should focus our initial work on consumers with some money but without significant wealth (those with less than £100,000 investible assets or incomes under £50,000)?

Yes.

Q24

Are there aspects of the current regulatory framework that could be simplified so that it is better understood and achieves its objectives in a more proportionate manner?

No comment.

Q25

Are there aspects of EU legislation and its implementation in the UK that could potentially be revised to enable the UK advice market to work better?

No comment.

Q26

What can be learned from previous initiatives to improve consumer engagement with financial services?

The possibilities afforded by technology in this area have exploded and have the potential to radically improve consumer engagement. Sites which are straightforward to use, easily accessed and which contain engaging content are the most successful.

Q27

Are there any approaches to the regulation of advice in other jurisdictions from which we could learn?

No comment.

Q28

What steps can be taken to address behavioural biases that limit consumer engagement without face-to-face advice?

State or commercially sponsored academic research available to suppliers could help the industry tune it’s offering to improve engagement.

Q29

To what extent might the different types of safe harbour described above help address the advice gap through the increased incentive to supply advice

This could be significant and could be made dramatically more so developing an education and passport generating technology facility as part of a gateway to purchase.

Q30

Which areas of the regulatory regime would benefit most from a safe harbour, and what liabilities should a safe harbour address?

No comment.

Q31

What steps could be taken to ensure that a safe harbour includes an appropriate level of consumer protection?

No comment.

Q32

Do you have evidence that absence of a longstop is leading to an advice gap?

No comment.

Q33

Do you have evidence that the absence of a longstop has led to a competition problem in the advice market e.g. is this leading to barriers to entry and exit for advisory firms?

No comment.

Q34

Do you have any comments about the benefits to consumers of the availability of redress for long-term advice?

Well educated consumers are less likely to accept advice which turns out to be inappropriate.

Q35

Do you have any comments or suggestions for an alternative approach in order to achieve an appropriate level of protection for consumers?

No comment.

Q36

Do you have any comments on the extent to which firms are able to provide consistent automated advice at low cost? Are you aware of any examples of this, either in the UK or other jurisdictions?

TOMAS have a simplified advice model which is up and working.

Q37

What steps could we take to address any barriers to digital innovation and aid the development of automated advice models?

Offering some funding to innovative businesses may speed their roll out. Forum to encourage working together and endorsement / promotion of appropriate services through some kind of accreditation perhaps?

Q38

What do you consider to be the main consumer considerations relating to automated advice?

- Trust (is the source credible?)
- Scams – fear of large transactions online
- Copycat sites

- Simplicity / ease of use
- Cost
- For more complex / larger transactions - people often use sites to gather initial information but often need human intervention to provide final instruction and execution (reassurance)

Q39

What are the main options to address the advice gaps you have identified?

See our prequel!

Q40

What steps should we take to ensure that competition in the advice markets and related financial services markets is not distorted and works to deliver good consumer outcomes as a result of any proposed changes?

No comment.

Q41

What steps should we take to ensure that the quality and standard of advice is appropriate as a result of any proposed changes?

No comment.

Andy Kirby

Managing Director

The Pensions Portal, Springboard, The Ron Cooke Hub, University of York, Heslington, York, YO10 5GE

From:
Sent: 01 December 2015 17:10
To: FAMRSecretariat
Subject: 2plan wealth management Ltd

Hello

I wanted to outline my thoughts and concerns for the FAMR Review:

- The current and increasing cost of regulation has a large impact on the availability of advice to certain sectors of the population
- Having gone through the RDR as an industry surely we cannot go back to the old commission/hidden charges system, particularly for those who have no option but to use this form of advice
- Following RDR I have had 100% positive feedback from clients both existing and new that they really like the transparency of the charging system we now operate as an industry and that they regard this as 'breath of fresh air '
- my clients value the work I do for them and most would find it impossible to replicate this themselves – this is partly to do with 'trust' through a now transparent fee/charging structure
- my clients like a clear defining line between advice (and the cost of this), product selection and provider selection – surely we don't want to go back to a system that allows less transparency, cross subsidy and the potential of yet another mis-selling saga – and this one created by the FAMR
- the product providers should be the innovators of product design and not the distributors of their own products– this is where we have come from and should not be where we now head.
- Finally , in the same way people pay for a solicitors, accountants etc. , **advice definitely produces better outcomes for clients** so perhaps promotion of the industry , less ever increasing regulatory costs would allow the 'advice' sector to grow

With kind regards

Chris

Chris Cheek Dip IP Professional Financial Adviser
Independent Financial Adviser

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Please consider the environment before printing this E-mail. Thank you

Response to call for input to the Financial Adviser Market Review published in October 2015

#

By Peter Hamilton,
Barrister
4 Pump Court
Temple
London EC4Y 7AN

Introduction

1. I am a barrister in practice at the above address. I have been involved in the regulation of the retail end of the financial services market since before Professor Gower published his review in January 1984.[1] At that time I was the company secretary and head of the legal department of Hambro Life Assurance plc.[2] I returned to the Bar in the spring of 1991. Since then, issues arising from the regulation of financial services have formed a substantial part of my practice.[3]

2. This paper is my response to the call for input from the Treasury and FCA team dealing with the Financial Advice Market Review which I have read. Generally, I agree with the analysis of the issues identified in the review.

3. In what follows, I set out some ideas which would improve the operation of the financial advice market. Those improvements could also directly or indirectly help to reduce the cost of regulation for advisers, which should in turn result in further improvements in the operation of the market. I am very willing to discuss any of them with the review team at any time.

4. My approach has been to focus on particular aspects of the matters raised by the review, and is not primarily directed at answering individual questions as framed in the review.

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[1] *Review of Investor Protection*, Cmnd 9125, January 1984.
[2] Later to become Allied Dunbar Assurance plc.
[3] My full CV is available on request from the

Summary

5. The ideas which are developed below, may be summarised as follows –
   (a) Change of the definition of independent adviser;
   (b) Introduction of a limitation long-stop;
   (c) Investigation of a professional indemnity insurance scheme; combined with a risk-based scheme instead of the FSCS; the scheme to be underwritten on insurance principles so that individuals can discuss their risk profiles with the manager of the scheme, and so be able to take action to reduce them.
   (d) Change to the status of the FCA by transforming it into a government department; and
   (e) Reform of the FOS.

Change definition of independent adviser

6. MiFID II introduces for the first time a European-wide standard for independent advice.[4] The purpose is to ensure that a firm giving independent advice does not restrict the products being considered to those of the firm, or of another firm with close links. In other words, the new standard is to prevent product and provider bias for the whole EU.

7. For a financial adviser to be able to offer independent advice, MiFID II requires the adviser to assess a "sufficient range of different product providers' products… prior to making a personal recommendation". At present, what would amount to a "sufficient range" has not been defined. The European Securities and Markets Authority (ESMA) has given advice which suggests that IFAs "should consider a range of financial instruments proportionate to the scope of advice, and adequately representative of the products available on the market".[5]

8. One of the difficulties identified by the FCA is that the categories of potentially suitable products under MiFID II are not the same as those in the list of retail investment products set out in COBS.[6] So will the FCA need to change the rule to include all the MiFID II products? The question for the FCA is how to incorporate the MiFID II definition into the COBS in the best possible way. This provides an opportunity to re-examine the definition of "independent" in

[4] See FCA's discussion paper, *Developing our approach to implementing MiFID II conduct of business and organisational requirements*, DP 15/3 March 2015.
[5] See DP 15/3 at para 6.3.
[6] DP 15/3 at para 6.12 et seq.

COBS 6.2A.3.

9. The starting point for such a re-examination must be the ordinary meaning of the word. In the Shorter Oxford English Dictionary, one of the meanings of "independent" is, "Not influenced by others in one's opinions or conduct; thinking or acting for oneself". That is a good starting point. Implicit in that definition is an attitude of mind: a sense of independence; of making up one's own mind; of being unbiased and impartial. Last year, the FCA recounted how a firm was right to say, "Independence is a state of mind – you just need to keep an open mind and consider all the options".[7]

10. On the other hand, the COBS rule[8] defines independence not in terms of an attitude of mind, but by a personal recommendation being based both on (a) "a comprehensive and fair analysis of the relevant market"; and (b) being "unbiased and unrestricted". In other words, the first part of the COBS definition focuses on the *process* involved in finding a suitable product from a prescribed list of retail investment products. Only the requirement of the recommendation being unbiased and unrestricted, refers explicitly to what most people would regard as an essential attitude of an independent mind.

11. It would, therefore, be better and easier to understand if the concept were defined by reference to the appropriate attitude of mind alone. Thus, an IFA could properly be defined as –

> "a firm which is not connected to, or unduly influenced by, any other provider of financial products or services, and whose advice is unbiased and impartial".

12. We all know when we are, or are not, thinking or acting independently. But how is an IFA to demonstrate that independence if challenged by the client or the FCA? The answer surely is that the adviser can do so by showing that he or she has carried out an appropriate review of the relevant market before making a personal recommendation. So it is a matter of having the systems and controls in place to record the work that was done to identify the product which was recommended as suitable. In other words, there needs to be an audit trail.

[7] FCA's Thematic Review, *Supervising retail investment advice: Delivering independent advice*, TR 14/5, March 2014, at p.7.
[8] FCA Handbook at COBS 6.2A.3.

13. It follows that rather than making the requirement to review the relevant market a part of the definition of independence itself, it could be made part of the test of the advice being suitable. After all, the ultimate objective giving advice is to provide suitable advice.

14. The FCA's dilemma of how best to include the MiFID II products could be avoided altogether by not trying to create a list of products at all. Instead, the FCA could adopt the ESMA's advice referred to above as part of the essential rule on suitability. Thus, an IFA would be required to ensure that before recommending a suitable product, he has considered a range of products "proportionate to the scope of the advice, and adequately representative of the products available in the market". Again, it would become a matter of creating and documenting an audit trail leading from the review of the market to the suitable recommendation. The onus would be on the IFA to show that he has done a proper job.

15. That approach has the merit, first, of emphasising the importance of the attitude of mind in the concept of independence; and secondly, of linking the process of reviewing the market to the rule on suitability – where it properly belongs.

16. Thirdly, it has the merit of avoiding the problem of defining what are, and what are not, retail investment products. It may be that the FCA would consider that it does need to define what are suitable products for retail clients, but that falls properly under the heading of "suitability" and not "independence".

Introduction of a limitations long-stop

<u>Background</u>

17. Under English law the generally applicable time limits within which claimants must issue legal proceedings in court are fixed for most purposes by the Limitation Act 1980. Broadly speaking, a claimant must institute proceedings within six years of the event which gave rise to the claim; otherwise it will be time-barred.[9]

18. There are special rules in the Limitation Act 1980 for claims based on negligence where the claimant does not know of the wrongful act or omission by the defendant, because, for example, the damage does not manifest itself until some time after the wrong was committed. In that

[9] See, for example, ss. 2, 5 and 9 of the Limitation Act 1980.

case, the claimant must commence proceedings in court within three years from when he or she first discovered the damage, or should with reasonable diligence have discovered it.[10] But the limitation period is not extended indefinitely: there is an overriding time limit of fifteen years from the date of the wrongful act or omission after which no claim may be brought.[11] There is thus a fifteen year period after which the three year rule will no longer assist a claimant; and that is known as the "long-stop".

19. In relation to complaints taken to the FOS, there are also time limits which are set out in the rules governing the jurisdiction of the FOS.[12] These rules relating to time limits have been made by the FSA (and now the FCA) under the power granted to it in the Financial Services and Markets Act 2000.[13] Generally speaking, those rules provide that the FOS cannot consider any complaint if it is referred to the FOS more than –

(a) six months after the final response of the firm against which the complaint is made; or

(b) six years after the event complained of; or (if later)

(c) three years from the date on which the complainant became aware (or ought reasonably to have become aware) that he or she had cause for complaint.[14]

20. Those time limits are roughly the same as under the general law as codified in the Limitation Act; but there is no long-stop and there are other significant exceptions. In relation to mortgage endowment complaints, there is a special regime introduced to assist complainants under which generally the complaint must be referred to the FOS within three years of the sending of a "red high risk letter". Again there is no long-stop.[15]

<u>Limitation under English law</u>

21. Time limits for bringing claims in court have been part of English statute law for nearly five hundred years,[16] and are an attempt to balance the competing and irreconcilable interests of claimants and defendants. As Lord Scott said in the House of Lords in his judgment in *Haward v.*

[10] Section 14A.
[11] Section 14B.
[12] FCA Handbook at DISP 2.8.
[13] Schedule 17, para 13.
[14] FCA Handbook DISP 2.8.
[15] FCA Handbook DISP 2.7.8.
[16] The first Limitation Act was enacted in 1623.

Fawcetts:[17]

"And, in prescribing the conditions for the barring of an action on account of the lapse of time before its commencement, Parliament has had to strike a balance between the interests of claimants and the interests of defendants. It is a hardship, and in a sense an injustice, to a claimant with a good cause of action for damages to which, let it be assumed, there is no defence on the merits to be barred from prosecuting [it] on account simply of the lapse of time since the occurrence of the injury for which redress is sought. But it is also a hardship to a defendant to have a cause of action hanging over him, like the sword of Damocles, for an indefinite period. Lapse of time may lead to the loss of vital evidence; it is very likely to lead to a blurring of the memories of witnesses and to the litigation becoming even more of a lottery than would anyway be the case; and uncertainty as to whether an action will or will not be prosecuted may make a sensible and rational arrangement by the defendant of his affairs very difficult and sometimes impossible. Each of the various statutes of limitation that over the years Parliament has enacted, starting with the Limitation Act 1623 and coming down to the 1980 Act, represents Parliament's attempt to strike a balance between these irreconcilable interests, both legitimate."

22. The long-stop is where Parliament drew the line in cases where the claimant did not know of the wrongdoing at the time. The matter cannot remain open for ever under the Limitation Act.

23. As Lord Scott points out, and for the reasons he gives, a court or tribunal is likely to find it increasingly difficult to reach a just decision with the passage of time. This also applies to the FOS, particularly because it often has to deal with the recollection of witnesses years after the events in question; and where the evidence may be uncorroborated, for example, by the presence of contemporaneous documents. Further, and importantly, that evidence is almost never tested by cross-examination because only a very small percentage of cases involve an oral hearing.

Absence of a long-stop in the FOS regime

24. The absence of a long-stop in the FOS regime is unfair to those, who like financial advisers, are subject to the FOS compulsory jurisdiction. Those advisers are, like all others, also subject to the jurisdiction of the courts. A complainant with a claim worth up to £150,000 can choose whether

[17] [2006] 1 WLR 682 at para 32, HL.

to sue in the courts or take the matter to the FOS, and is likely to choose the FOS because it has a reputation of being pro-complainant; a complaint to the FOS is free of cost to the complainant; and the complainant is not bound to accept the FOS decision, and can reject it and then sue in the courts.

25. It is unfair that a firm subject to the FOS' compulsory jurisdiction cannot claim the benefit of a long-stop rule when dealing with a stale complaint to the FOS when all other professionals are able to do so in court. It is unfair because the lack of a long-stop discriminates against such firms.

26. Take the following example: suppose a client has been advised by his solicitor, his accountant and his financial adviser who all agree on the course of action which the client should take. Such a situation is not unusual. Assume that that advice was negligent and that the client did not know of the negligence for, say, 20 years when the loss first emerged. The client would not be able to sue the solicitor or the accountant because of the long-stop in the Limitation Act. But because of the lack of a long-stop in the FOS rules, the financial adviser could still be exposed to an adverse decision by the FOS in which it could make an award of redress of up to £150,000. That is surely unfair: why should two of the three professionals involved in the same case escape liability on the basis that Parliament drew the line in one place, but the FCA chose not to draw an analogous line at all? In any event, it cannot be right in principle, let alone fair, that a financial adviser has no liability under the general law, but is liable to make payments of up to £150,000 under the FOS jurisdiction.

27. Since an IFA continues indefinitely to be subject to the risk of a complaint to FOS, records need to be kept indefinitely and at significant cost[18] and potential hardship.

28. Further, professional indemnity insurance cover will need to be maintained indefinitely after retirement. Indeed, cover may not be available at affordable cost or at all. Those costs have to be paid from retirement income. That may also cause hardship.

[18] The FSA has estimated that reducing the time for holding records from 30 to 15 years would save the average advisory firm about £3,000pa, which the FSA conceded was "not trivial". See the FSA's Feedback Statement FS08/6: Retail distribution Review (November 2008).

The Rule of Law

29. It is also contrary to the rule of law, which is the general principle which underpins our society. The rule of law is not an abstract concept of interest only to academic constitutional lawyers. It is of vital importance to all of us all of the time: it underpins our essential values and freedom. The courts will uphold it.

30. Stanley Burnton LJ said in his judgment in *R (Heather Moor & Edgecomb Ltd) v. Financial Ombudsman Service* Ltd[19] that "The Rule of Law is undoubtedly a basic principle, perhaps the basic principle, of our unwritten constitution and of the Convention".[20] Lord Bingham, in a lecture entitled *The Rule of Law*[21]recently expressed the rule of law in this way. He said that the "core of the existing principle [of the rule of law] is… that all persons and authorities within the state, whether public or private, should be bound by and entitled to the benefit of laws publicly and prospectively promulgated and publicly administered in the courts".

31. In other words, the laws of the land should apply equally to all, and not be changed with retrospective effect. First, as regards equality before the law: all those firms subject to the FOS's jurisdiction are deprived of the benefit of the long-stop in the same circumstances in which all others are able to rely on it. It is equally arbitrary that those firms are able to rely on the long-stop if sued in the courts. In other words, the lack of a long-stop discriminates unfairly against firms subject to the jurisdiction of the FOS.

Human rights

32. The law relating to human rights is also relevant. It is not surprising that the rule of law naturally supports and protects human rights and freedoms. Many of the rights and freedoms codified in the Human Rights Act 1998 have their origin in the rule of law.[22]

33. For present purposes, Article 14 is relevant.[23] This provides that no one should be discriminated against in relation to the rights and freedoms secured by the Act. The European Court of Human Rights has stressed that this article prohibits discrimination based on a personal characteristic or

[19] [2008] EWCA Civ 642 at para 48.
[20] Ie, the European Convention on Human Rights.
[21] See Cambridge Law Review, 2007 at p.67.
[22] See the comment by Stanley Burnton LJ in para 17 above.
[23] Schedule 1, Part I, Article 14.

status[24] and a status includes a professional status.[25]

34. It follows that the discriminatory effect of there being no long-stop available under the FOS regime, unlike the availability of the fifteen year long-stop to all defendants in the ordinary courts, is on the face of it, in breach of Article 14.

The FSA's refusal to introduce a long-stop

35. What justification did the FSA put forward for this breach? When considering the FSA's position, it should be remembered that before the FSA made the current rules relating to time limits, the most relevant previous ombudsman scheme, the PIA Ombudsman, applied the ordinary law relating to limitations, including where appropriate, the fifteen year long-stop. That long-stop was swept aside by the current rules.[26]

36. The FSA took the approach that it did not have to justify the lack of a long-stop: on the contrary, it maintained that it would not re-introduce a long-stop unless that could be justified.[27] Its reason was that to justify a long-stop, it needed to identify benefits to firms or consumers beyond the savings for firms from not having to make compensation payments. The FSA did not deal with the unfairness or hardship points as set out above. That failure was itself unfair.

37. It ignored the basic point that in all other aspects of their lives, the clients of financial services firms such as IFAs are subject to the long-stop provisions of the Limitation Act 1980.

38. According to the FOS, the lack of the long-stop is of relevance to very few individual complainants. It follows, therefore, that the introduction of a long-stop would shut out only an insignificant number of claims.[28]

Conclusion

39. The FCA should now introduce a long-stop to provide a proper balance between the interests of the consumers and providers and other firms providing financial advice. The proper balance is that provided for by Parliament: fifteen years in the appropriate cases. The difference between

[24] *Kjeldsen Madsen and Pedersen v. Denmark* (1976) 1 EHRR 632, para 36
[25] *Van der Mussele v. Belgium* (1983) 6 EHRR 163.
[26] See above at para 15.
[27] The FSA's Feedback Statement on the Retail Distribution Review (November 2008) at para 4.101.
[28] Reported in Money Marketing, 18 December 2015.

the Limitation Act and the FOS rules on time limits is unfair, causes hardship to financial advisers and is discriminatory and unlawful.

Compulsory professional indemnity insurance and reform of the Financial Services Compensation Scheme

40. All financial advisers need professional indemnity insurance ("PII") for as long as the adviser and his firm are in business; and after ceasing to be in business, for example, on retirement, for as long as the firm is exposed to the risk of claims. As long as there is no long-stop limiting complaints to the FOS, that risk continues indefinitely. It follows that if such a long-stop were to be introduced, it would cut down the risks to firms, and reduce the cost of providing PII.

41. At present there are at least two difficulties in the PII market. First, the premium rates combined with excesses, on offer to advisory firms are prohibitive for some firms. I know of one small firm which was offered such cover for a premium of £20,000 with an excess for each claim of £20,000.

42. Another individual adviser who has retired has been unable to obtain run-off cover for longer than 6 years, despite the fact that he remains liable to face complaints to the FOS indefinitely.

43. The FCA should investigate the market with a view to the establishment of a single PII scheme for all firms offering financial advice. Such a scheme could be established and managed by the FCA to ensure that the terms to firms are appropriate and not so onerous as to restrict competition, for example.

44. The Financial Services Compensation Scheme ("FSCS") is in effect a form of insurance of last resort in respect of claims against firms no longer in business. It should be restructured as an insurance scheme, and ideally combined with the single PII scheme suggested above. The advantages of doing so are –

    (a) the unfairness of levies on well-run and solvent firms with little in common with the firms in default, would be eliminated.

    (b) each firm would have its risk of future claims properly underwritten. That would mean that each firm would pay the appropriate premium for the risk of claims being made against it once it ceases to carry on business. Firms would be able to reduce the risks of such claims by limiting its areas of business. Thus, if it wished to do so, a firm could limit its range of business to conservative and less-risky areas.

(c) The managers of the scheme would take a close interest in the way in which each firm conducted its business, and would cooperate with the regulators.

Improve efficiency and accountability of the FCA

45. The main conclusions of the long-awaited report by the FCA and PRA on the failure of HBOS[29] were predictable: the HBOS board was ultimately responsible for the bank's failure.[30]

46. But the report also concluded that the FSA contributed to the failure, because it –
    (a) Did not appreciate the full extent of the risks that HBOS was running and did not take sufficient steps to intervene before it was too late;[31]
    (b) Did not devote sufficient resources to its supervision of HBOS;[32]
    (c) Failed to focus adequately on the core prudential risks of asset quality and liquidity;[33]
    (d) Employed a risk-assessment process that was too reactive;[34] and
    (e) Did not challenge the HBOS management with any, or sufficient, vigour.[35]

47. Those conclusions were not surprising, given previous failures in which similar conclusions were drawn, as set out below.

48. Shortly after the failure of Equitable Life in 2001, the FSA's internal audit department carried out an inquiry into the FSA's performance. It concluded that the FSA could have done better in crucial respects. The report recommended, inter alia, that the FSA should "be prepared to act more proactively… to ensure that the interests of customer are properly protected".[36] In other words, the FSA should take action when necessary to protect customers.

49. Next came Northern Rock. One of the reasons for its failure was its flawed business plan. That was a management failure. Again, the FSA's internal audit department carried out an inquiry and issued a report which concluded that the FSA should have done better. When the principal conclusions of that report were published, Hector Sants issued a statement in which he said:

[29] Published on 19 November 2015.
[30] Report, p.14 para 3.
[31] Report, p.14 para 3.
[32] Report, p.32 para 96.
[33] Report, p.32 para 96.
[34] Report, p.32 para 96.
[35] Report, p.32 para 94.
[36] The Baird report, 16 October 2001 (HC244), at p.231.

"… the FSA acknowledges that its supervision of Northern Rock … was not of sufficient intensity or appropriate rigour to challenge the company's board and executive on their risk management practices and their understanding of the risks posed by their business model." In other words, the FSA did not challenge the firm adequately, and it failed to take appropriate action.

50. Then came RBS. The headline reasons in the FSA's report on the failure of RBS were "poor management decisions, deficient regulation and a flawed supervisory approach".[37]

51. These failures have at least two things in common. First, that the firm in question had a flawed business plan and the board was responsible for its failure. Secondly, that the FSA's regulatory approach was also flawed and failed to challenge the firm's management adequately.

52. The HBOS report makes recommendations for the improvement of the regulator's performance in the future, but a key paragraph in the report states –
"A more probing, sceptical and interventionist stance in the pre-crisis period could have delivered different outcomes but this would have required a significant increase in the resources and experience of the team, together with a different approach to supervision and the active support of FSA executive management and the Board."[38]

53. However, if the FSA had, before the financial crisis, insisted on changes to the way in which the business was run, the report says –
"…it is likely that their proposals would have been met by extensive complaints that the FSA was pursuing a heavy-handed, gold-plating approach which would harm the United Kingdom's competitiveness."[39]

54. Notwithstanding that comment, the authors recommended that the regulators must be more willing to act. The report says –
"The PRA and FCA have both adopted forward-looking and judgement-led approaches to supervision in seeking to meet their statutory objectives. Whilst it is not the role of the regulators to ensure that no bank fails, where the risks to their objectives are high they have statutory powers to intervene, for example to require a bank to change its business model.

[37] FSA Board report, published 16 December 2011, at p.21.
[38] HBOS report, para 113.
[39] HBOS report, para 101.

Where intervention is warranted, the regulators must be willing and able to do so free from undue influence..."[40]

55. The difficulty is that there is a tension, if not an inconsistency, in saying on the one hand that it is not the role of the regulators to ensure that no bank fails, and on the other, that the regulators must be willing to act to require a bank to take what that bank would regard as drastic and unnecessary action. That tension lies at the heart of our system of regulation. What would we rather have: regulators with the courage of their convictions and the firmness of purpose to take action even to the extent of ensuring that the bank did not fail, or regulators who suffer from the defects recorded above? Surely, as we have discovered to our cost, the latter provide illusory security to the public and are not worth having?

56. We need regulators with the resources, experience and courage to make a firm change direction, even when told that it is no part of a regulator's job to ensure that the firm does not fail. If the challenge from the regulators is too intense or misplaced, the regulatory system and the courts provide remedies.

57. As the above review of the inadequacies of the FSA suggest, the so-called independent regulator model has not been shown to be successful.[41] What the present system lacks is proper political oversight and accountability to Parliament.

58. Is there a better alternative? It is submitted that the answer is Yes. Maintaining law and order within the UK is one of the most important roles of the government. That, surely, is second only to protecting the country from military invasion. Regulation of financial services is in reality part of the role of maintaining law and order, and so it follows that it is really the job of government. It follows further that financial regulation should carried out by a government department with a minister in charge whose job would be to make the difficult decisions, and who in turn reports directly to Parliament. In that way the lines of responsibility would be clear. The minister would have the authority to take action and to ensure that the rules are maintained and enforced. He or she would feel personally the pressure of having to stand up in Parliament to set out the unpalatable facts of the latest scandal, whether it be money-laundering in Mexico or rigging the forex rates in London. On balance, a minister responsive to Parliamentary pressure would be

[40] HBOS report, para 129.
[41] Support for that conclusion is set out in considerable detail in the report by the Parliamentary Commission on Banking Standards published on 7 March 2013 and called *"An accident waiting to happen": the failure of HBOS*.

better than a CEO of the so-called independent FCA, who is much more isolated. Under public and Parliamentary scrutiny and pressure, such a department would have dealt with the excesses of the banks at least as well as the FSA (or FCA) has in fact done. Mis-selling may well be stopped quicker, in response to complaints by constituents to their MPs.

59. The FCA's independence is only ostensible because its chairman and chief executive are both appointed by the Treasury;[42] and three of its board are appointed by the government.[43] It must make an annual report to the Treasury on "the discharge of its functions" and other matters.[44] The Treasury can call for other reports and information.[45] All that material must be laid before Parliament.[46] Would it not be better to face the reality of the situation and to make the FCA a government department, presumably as a part of the Treasury, with one of the ministers now in the Treasury responsible for financial regulation?

60. The real benefit for the financial services industries would be at least threefold. First, the evolution of the rules of regulation would be subject to better scrutiny than at present. The process would be led by the minister with the political responsibility for the consequences. Thus, for example, the Retail Distribution Review would probably have been carried out in a much more sensitive way than it was by the FSA.

61. Secondly, the government would be likely to take a greater interest in important aspects of the regulatory processes such as compensation for the wrongdoings of firms (currently dealt with by the FOS) and the failure of firms (currently dealt with by the FSCS). At the moment, there is no appetite to tackle the long overdue reform of the FOS and the FSCS. (The question of funding the regulator is a difficult one to answer satisfactorily. But at least if it were a government department, the starting position is likely to be that it would be funded by taxation, its budget would be closely scrutinised by the Treasury, and supplemented by fees in much the same way as at present.)

62. Thirdly, there would be full accountability for the regulators' actions and omissions to Parliament and the electorate. True and proper accountability of the regulators has been an issue for years. Note that accountability is not the same thing as having a duty to report on

[42] FSMA Schedule 1ZA, para 2(2).
[43] FSMA Schedule 1ZA, para 2(2).
[44] FSMA Schedule 1ZA, para 11(1).
[45] FSMA Schedule 1ZA, para 11(1)(j).
[46] FSMA Schedule 1ZA, para 11(4).

various matters. The Shorter Oxford Dictionary defines "accountable" as being liable to be called to account; responsible (to somebody, for something).

Final report of Parliamentary Commission on Banking Standards[47]

63. Even accepting the new regulatory regime established in 2010, accountability of the regulators needs to be improved. In its final report, the Parliamentary Commission on Banking Standards outlined its recommendations for the accountability of the regulators.[48] Its first point was that although "many institutions can examine what goes wrong in banks, *only Parliament can hold regulators to account"*.[49]

64. The Commission's chief focus was on the banking industry and its regulation by the Bank of England and the PRA, but what it said on the subject of the regulators being properly accountable to Parliament should also be applied to the FCA:
"The new, highly complex, regulatory structure represents a further delegation by Parliament of decision-making powers that formerly lay with Ministers. Many of these powers could be of great significance and their use will trigger public debate and generate controversy. Ministers taking such decisions are accountable to Parliament and to the electorate, but the new regulatory structure needs accompanying accountability mechanisms to ensure that Parliament, and through Parliament the public, have the explanations to which they are entitled."[50]

65. The Commission went on to say: "Strong accountability mechanisms are also in the interests of the new regulators themselves. Without the authority and legitimacy that comes from being held properly and publicly to account, they are likely to be less confident in taking difficult and possibly unpopular decisions."[51]

[47] *Changing banking for good*, published 12 June 2013.
[48] At paras 1103 to 1108.
[49] Para 1103. Emphasis added.
[50] Para 1104.
[51] Para 1105.

Reform of the Financial Ombudsman Service[52]

Defects in financial services compensation today

66. The Financial Ombudsman Service ("FOS") itself is in serious need of structural reform; and its relationship with the FCA needs to be reconsidered. The scheme is unbalanced. A firm against which a complaint has been made to the FOS is bound by the FOS' decision without any appeal on the merits; the complainant is not bound and can re-run the same case again in court. Complainants pay no fee; firms have to pay, even when a complaint is dismissed.

67. The FOS does not have to make decisions in accordance with the law of England and does not do so. Instead it proudly proclaims that it makes its "own law".

68. The FOS hardly ever holds oral hearings. Its own senior staff have suggested that it does so in 1 out of 10,000 cases. It defies belief that there can be a factual dispute in only so tiny a proportion of disputes. This is at variance with the assurance given to the House of Commons. On 30 November 1999 Miss Melanie Johnson MP, Economic Secretary to the Treasury, said to the House of Commons committee considering the Financial Services and Markets Bill in relation to proposed amendments to what has now become section 228 and Schedule 17 of the Act,

> It is perfectly possible to operate the [FOS] scheme effectively while also protecting the parties' ECHR rights. Firms and complainants that bring disputes to the ombudsman will be able to exercise their right to a fair and public hearing. The option of a judicial review will be open to both firms and consumers once the ombudsman's decision has been taken, which ensures that all parties will be heard. Article 6(1) stipulates that in the determination of civil rights and obligations, everyone is entitled to a fair and public hearing by an independent and impartial tribunal. <u>The scheme will provide for a hearing to be held if one is requested by a party to the complaint.</u> We do not believe that the scheme will be legalistic. <u>We expect the right to a fair hearing to be exercised frequently.</u>
>
> (emphasis added)

69. There is so close a structural connection between FOS and the FCA as to cast doubt on whether FOS can be regarded as independent of the regulator.

[52] This section is a summary of a paper written by Anthony Speaight QC and me in 2011. The full paper is available on request.

70. These features make the FOS system incompatible with the rule of law, and unacceptable for a body with jurisdiction currently of £150,000.

Proposals for reform

71. The FOS adjudicators would continue to deal with all complaints as they do at present. In most cases, at present the parties accept the decision proposed by the adjudicator. Under the reformed scheme proposed here, they would decide the complaint. Firms should have to comply with those decisions when they are made by paying any sum ordered to the customer, or into court. But firms should have the right to seek a review by way of full rehearing. This would adopt the principle of "temporary finality" of construction adjudication enacted by Parliament, which has proved so successful and popular for the construction industry.

72. The review would be by a first tier tribunal, which might be known as the Financial Services Complaints Chamber ("FSCC"). This tribunal would adopt many of the practices and flexibility which have earned a high reputation for the Financial Services and Markets Tribunal created by the 2000 Act. It would be a specialist tribunal, and could be expected to handle cases with the efficiency already associated with other specialist courts and tribunals.

73. The FSCC would hold oral hearings, allow cross-examination where a case turned on disputed witness evidence, and make decisions in accordance with English law. Like any other court or tribunal, there would be no ceiling on its financial jurisdiction.

74. The FSCC would also provide a review for consumers who are disappointed by their complaints being dismissed by FOS.

75. Those features of its "own law" which FOS has developed and which are favoured by Parliament should be enacted as part of English law in the statute which enacts these reforms.

76. To protect the position of consumers who have succeeded at FOS, the rule on costs when a firm seeks a review at FSCC would be one way costs shifting: the customer would recover costs if he or she won, but the firm would not be entitled to costs against the customer if it won.

77. Since the FSCC would be providing access to justice fully in accordance with the rule of law, a more rough and ready decision-making at the FOS level would be acceptable. Therefore, FOS should cease its 2nd-tier system under which if the first decision maker's view does not commend itself to the parties the case is looked at all over again, and two more decision letters are written, by a second, more senior decision-maker (an ombudsman).

78. The costs saved be abolishing the 2nd-tier of FOS work (currently carried on by the panel of ombudsmen) should be channelled into a legal aid fund for consumers at the FSCC. Since the FOS is wholly financed by the financial services industry, this fund would thus also be wholly industry financed. It would entail no public money. The fund would be administered under the control of a board drawn one quarter each from the Bar Council, the Law Society, the FCA (or its successor) and financial services industry trade representative bodies.

79. It would be possible to appeal from decisions of the FSCC on questions of fact or law, with the permission of the FSCC itself or the Upper Tribunal.[53]

Conclusion

80. It is not practicable at this stage to expand further on the above ideas, but I would be happy to do so if that would be useful to the review team.

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18 December 2015

[53] The Upper Tribunal currently also deals with matters referred to it under the FSMA.

AEGON

Transform Tomorrow

Aegon's response to

HM Treasury and FCA Financial Advice Market Review Call for input

December 2015

Contents

1. Introduction and key proposals

Aegon UK is part of an international provider of life insurance, pensions and asset management. With approximately £542 billion assets under management, the Group has businesses in over 20 countries around the world. Aegon UK has around two million customers in the UK and has been supporting customers since 1831.

Working direct with our customers, employers and advisers, we're proud to be helping people take responsibility for their financial futures. That's now more important than ever with the UK's worrying lack of readiness for retirement. It's a major issue for all of us and we're committed to solving it.

At Aegon UK we've made it our mission to get the UK ready for retirement. A big part of that is our market-leading innovation, Retiready. Alongside our other offerings, Retiready is a digital non-advised service which helps people take control over their future by providing online retirement planning tools. Workplace Retiready will give employers and advisers the tools they need to help get their employees and clients ready for retirement.

Aegon welcomes the opportunity to provide input to the HM Treasury and FCA Financial Advice Market Review ('the Review'). We see the Review as a timely opportunity to reflect on the needs of consumers, taking into account the huge environmental changes we are seeing, whether in legislation and Government policy, regulation, technology or consumer attitudes. We also support the collaboration between HMT and FCA which will ensure the Review fully explores how best to align the regulation of advice and guidance with public policy.

The Call for Input set out the issues and challenges very accurately. We also particularly welcome the level of engagement between the Review team and the industry and the clear intention to learn from previous attempts at reform such as the Retail Distribution Review and various simple product initiatives.

To inform our response to the Review, in September, we carried out research with advisers and consumers. In our consumer research, covering 2,000 respondents, we sought to analyse:

- the understanding of advice as opposed to guidance;
- what value consumers perceive they gain from advice;
- where consumers are confident to make their own financial decisions;
- in what circumstances they might seek advice; and
- how much they would pay for advice.

Our associated research with 250 advisers covered similar topics but of course from the adviser perspective. This included:

- where advisers believe there is greatest need for advice; and
- barriers to offering advice.

We have included with this response a report – "The advice premium" – summarising the research findings. We have also included research findings in response to many of the Review questions.

Before responding to each of the specific questions, we would like to set out four key proposals which we believe would make a significant difference in meeting customer needs for advice in all its forms:

1. **Define different 'advice' services in consumer terms**

We believe there is a need for a range of different 'advice' services. However, at present, these and the differences between them are not understood by consumers. A fundamental requirement for the Review to be successful is making sure that consumers understand different advice services and this must start by describing them in terms of what the service means to customers, rather than in terms of regulation. For each form of advice, we would set out:

- what the service will involve through the consumer's lens
- what the service will and will not deliver

- who is responsible for making decisions
- where the individual retains personal responsibility; and
- what protections the customer has if things go wrong.

We believe this relatively simple measure will have a number of highly positive consequences:

- increased awareness of the value of advisers and advice
- a solid basis for consumers to understand their personal responsibility
- help from the definitions to understand what services they need
- allowing informed decisions and supporting the increasing tendency to use a range of sources for their financial advice and guidance.

Providers and advisers have very important responsibilities to their customers, and it is important that these are understood by all, including those customers, and delivered on. However, we believe the FCA and the Financial Ombudsman Service should look again at legitimate personal customer responsibility. If personal responsibility is not defined, in a way that consumers understand, then there is a risk to the efficient operation of the financial services market and advice and guidance within this.

2. Develop a triage service for helping customers choose the right ‘advice’ service for them

Having helped customers understand the different ‘advice’ services they can choose from, we then believe more can be done to help them choose between these based on their current needs and circumstances. We propose a triage style service to help direct consumers. This could be delivered in various ways, with a digital approach or industry-standard ‘app’ being, in our view, the most powerful.

The app could include examples of scenarios which would indicate the most appropriate service.

Our research indicates that customers expect their financial services providers (and advisers) to be able to help them, so these parties, as well as publicly-funded bodies, should be able to provide this service. Creating an industry standard ‘app’ should remove any concerns over the partiality of any particular commercial provider.

3. Design a clear service between full advice and ‘no’ advice

There are some individuals who do not need any support, guidance or advice. We believe they should remain free to engage with financial services without any advice and to purchase on an ‘execution only’ basis.

We also believe that the full regulated advice model is working well for the benefit of many customers, through the highly professional financial adviser channel with the improved transparency of charges delivered by the RDR. (However, see point 4 below)

We believe the greatest need, and the primary focus of the Review, should be to create a clearly defined service between full and no advice. This is where the ‘advice gap’ is most critical and we see huge opportunities to further support customers here. As well as offering opportunities for financial advisers to offer parallel services, this is where there are greatest opportunities for the expansion of digital services. It is also the market which lends itself best to scale providers. We also see potential for this service to be offered through the workplace, building on the central role the workplace plays in pension savings.

This service needs to be clearly distinguishable by consumers from full advice. There are parallels with other purchases. Consumers already recognise they can choose between ‘bespoke’ and mass market or ‘ready-made’ services.

While not a pre-requisite for designing this middle service, setting criteria for the products that can be promoted through this service might allow the FCA to go further in lightening the regulatory regime.

We see auto-enrolment as a useful reference point here. It is Government policy to auto-enrol all employees into a workplace pension that meets certain product criteria. The government is comfortable that not all employees, by definition, will be in the best workplace scheme available. They will however benefit from participation and the governance and quality standards around qualifying / auto-enrolment schemes. We recommend consideration is given to whether similar quality standards could be developed for a wider ‘safe harbour’ product set to allow them to be promoted by the middle service with lighter regulation of ‘advice’.

One possible approach, building on existing FCA regulation, would be that products designed to be sold as non-advised could be promoted in this way.

It will be crucial that there is clarity and agreement from the outset about what a safe-harbour service means in practice for consumers as a group. There needs to be acceptance that not all will benefit from as good an outcome as if they had sought full advice. But they should receive a broadly suitable outcome and a better one than if they had not had the benefit of the service.

We also believe that guidance on safe harbour products could provide a path for new entrants to the industry, which would benefit firms of all types, and the wider objective of the Review.

We would also like the Review to consider whether advisers and providers could be allowed to offer a similar service to Pension Wise – perhaps using standardised content – to reach more individuals, for example in the workplace. We understand the Government’s concern over other providers having commercial interests but the FCA has other regulatory powers which we believe could address the risk of partiality.

4. Enhancing the cost effectiveness of full advice

While many customers already benefit from full professional advice, the costs associated with it restrict the population who can afford to seek it. We propose reducing the catchment of the regulatory requirements around full advice, in two ways.

First, we believe more can be done to recognise and make specific provision for advice on a particular area of financial need. While the FCA recognises this very common scenario, the regulatory treatment is essentially the same as for full advice.

Second, for all types of full advice, we believe that the FCA should explore whether consumer clarity on personal responsibility (see point 1 above) may allow adviser liability to be reviewed, including the introduction of a long stop.

We would be very happy to discuss any aspect of our response further with the Review team.

Steven Cameron

Regulatory Strategy Director
Aegon UK

2. Responses to consultation questions

Q1: Do people with protected characteristics under the Equalities Act 2010, or any consumers in vulnerable circumstances, have particular needs for financial advice or difficulty finding and obtaining that advice?

We believe that some of the protected characteristics may increase the difficulty of obtaining financial advice. However, we believe that it is more helpful to consider this in terms of vulnerable consumers, which is a broader and more accurate indicator of additional needs. We note FCA's Occasional Paper 8 on this subject, which we are reviewing our practices against. This initiative is relevant to all authorised firms which may have a role in providing increased access to financial advice in future.

As we increasingly face up to the challenge of funding long term care, there will be a growing need to provide solutions to offering advice to those at very advanced ages.

Q2: Do you have any thoughts on how different forms of financial advice could be categorised and described?

We see the way different forms of financial advice are categorised and described as fundamental to the success of the wider Review.

We believe there is a need for a range of different 'advice' services. However, at present, these and the differences between them are not understood by consumers. We must make sure that consumers understand different advice services and this must start by describing them in terms of what the service means to customers, rather than in terms of regulation. For each form of advice, we would set out:

- what the service will involve through the consumer's lens
- what the service will and will not deliver
- who is responsible for making decisions
- where the individual retains personal responsibility; and
- what protections the customer has if things go wrong.

We believe this relatively simple measure will have a number of highly positive consequences:

- increased awareness of the value of advisers and advice
- a solid basis for consumers to understand their personal responsibility
- help from the definitions to understand what services they need
- allowing informed decisions and supporting the increasing tendency to use a range of sources for their financial advice and guidance.

Providers and advisers have very important responsibilities to their customers, and it is important that these are understood by all, including those customers, and delivered on. However, we believe the FCA and the Financial Ombudsman Service should look again at legitimate personal customer responsibility. If personal responsibility is not defined, in a way that consumers understand, then there is a risk to the efficient operation of the financial services market and advice and guidance within this.

We are reluctant to offer up suggested labels. Advice, guidance and other variations can mean very different things to customers than they do to industry players. This comes through very clearly in the research findings we share below.

Instead, we believe consumers would respond better if services are explained in terms of:

No advice – this is being done 'By Me'
Middle ground – you are doing this 'With Me'
Full advice – you are doing this 'For Me'

We think there is a place for standardised material on this, to be distributed at key points in consumers' lives, and available from publicly funded bodies and financial services firms via the triage type service noted in our introduction.

We believe there is the potential for considerable confusion between how the FCA defines 'advice' and 'advice with a personal recommendation'. We believe distinct labels are needed for each of these with the former being closer to what we believe customers would see as guidance, as it’s a service done ‘with me’ and the customer remains responsible for the decision.

Our consumer research included a number of questions which illustrate what customers understand from financial ‘advice’ and ‘guidance’ and the differences between these.

Table 1: Which of the following options do you consider financial advice? (Customer)

Financial recommendation from friend or family	27%
Online forums on money saving or investment	25%
Articles in newspaper personal finance sections	22%
A consultation with a professional financial adviser	51%
Help from Money Advice Service, Citizen's Advice Bureau, Pension Wise or similar	38%
Information on pension provider / financial service provider website	23%
None of the above / I don't know	20%

Table 2: Which of the following do you understand? (tick all the options that you're confident with) (Customer)

The specific difference between professional regulated financial advice and financial guidance	24%
The difference between 'independent' and 'restricted' advice	27%
The difference between simplified advice and full advice	21%
None of the above	54%

Table 3: The term 'guidance' is increasingly being used to refer to a method of helping people make financial decisions. Which of the following options best describes your understanding of the term? (Customer)

It refers to tools that can be used to guide people to different financial decisions	11%
It refers to a more limited advice service in which advice relates to a single decision or recommendation	11%
It gives you information but doesn't tell you what to do	39%
I don't know	27%
None of the above	10%

Table 4: If you were to receive financial guidance rather than full financial advice, which of the following things do you believe are true? (Customer)

You have been given a personal recommendation based on your circumstances	19%
You have access to the Financial Ombudsman Service if unhappy	15%
You have access to the Financial Services Compensation scheme if things go wrong	11%
You have been given options and the decision and responsibility is in your hands	48%
None of the above	27%

Table 5: In your opinion, what are the benefits of taking professional financial advice? (Customer)

The advice, if good, can help your investments grow more than without advice	41%
It gives you peace of mind that you've been advised by an expert	33%
It gives you peace of mind that you're making the best decision for your circumstances	27%
It gives you peace of mind that you can complain to the FOS if not happy	20%
It gives you peace of mind that you have an independent perspective from a third party	21%
You aren't under pressure to follow their advice as they're not a salesman for a company	21%
None - There are no benefits	9%
None - I don't know	20%
Other	<1%

Table 6: Given everything you've read in the previous questions, do you think there needs to be clearer communications about the different type of financial advice and guidance available to you? (Customer)

Yes	75%
No	24%

Based on the responses to these six questions, we would make a number of observations:

- As we had expected, the way consumers define financial ‘advice’ is very different from the regulatory definitions applied by the FCA
- Few consumers understand the difference between guidance and advice or between different forms of advice, with 54% understanding ‘none’ of the differences surveyed.
- 38% regard services from MAS, CAB and Pension Wise as ‘advice’, which clearly presents barriers to help customers to place a value on ‘regulated advice’
- Of the options given regarding what ‘guidance’ involves, it was encouraging that the most popular choice was ‘it gives you information but doesn’t tell you what to do’. Similarly, regarding financial guidance, the most popular belief was ‘You have been given options and the decision and responsibility is in your hands’. We believe these findings provide helpful insights into how we should be defining guidance separate from advice, to help customers understand each in terms of what they mean to them and the responsibility they personally retain
- Most customers do see some benefit in advice, with the most popular choices being improving investment returns and peace of mind. Only 9% said there were no benefits.
- Worryingly, despite opportunities to offer guidance through technologies, only 11% viewed ‘tools’ as guidance.
- Based on the above points, it is not surprising that three quarters of consumers see a need for clearer communication about the difference between advice and guidance.

To complement our consumer research, we also undertook adviser research. We wanted to compare consumer views with those of advisers.

Table 7: The term ‘guidance’ is increasingly being used to refer to a method of helping people make financial decisions. What best describes your understanding of the term? (Adviser)

It refers to tools that can be used to guide people to different financial decisions	57%
It refers to a more limited advice service in which advice relates to a single decision or recommendation from a menu of services	22%
It is still unclear	19%

Table 8: Do you think there needs to be clearer communications about the different types of financial advice and guidance available to consumers? (Adviser)

Yes	86%
No	14%

Table 9: In your opinion, what are the benefits of taking professional financial advice? (Adviser)

It gives clients peace of mind that they've been advised by an expert	63%
It gives clients peace of mind that they can complain to the FOS if not happy with the advice	42%
The advice, can help client's investments grow more than without advice	32%
It gives clients peace of mind that they have an independent perspective as opposed to an impartial view from a sales talk from a provider	30%
There are no benefits of taking professional financial advice	<1%

Our observations here include:

- While as would be expected, advisers are clearer than consumers on the difference between advice and guidance, there is still a worrying lack of full clarity.
- It is interesting to note that advisers are even more supportive than consumers of the need to have clearer communications.
- There is an overlap between what consumers and advisers see as the key benefits of advice, although the priority order is different. This suggests that more can be done to promote the benefits of advice and to express these in a way that customers place value on.
- 57% of advisers see tools as a form of guidance – a sharp contrast with consumers, where only 11% saw this as guidance. This suggests more needs to be done to explain to consumers the opportunities a digital age brings.

Q3: What comments do you have on consumer demand for professional financial advice?

We believe that the professional advice market is working relatively effectively. For those with sufficient income or wealth, and / or where financial needs are more complex, there is real benefit in seeking out and paying for a comprehensive and 'bespoke' professional service which will identify the most suitable solution. There are a number of barriers however, including the costs associated with a full advice service.

The RDR introduced huge and demanding changes for advisers, which benefitted those who use full advice. However, we do not believe that enough was done to truly promote these benefits to customers. We believe there would be more appreciation of, and willingness to pay for, the service provided by professional advisers if their universal qualification requirement, the transparent way they are remunerated, and the extent of what they do to give bespoke advice was better known. We would like this to be highlighted within the customer-facing descriptions of services and promoted as part of the triage service and information available to consumers.

From a consumer perspective, we wanted to understand the correlation between the amount of pension saving and the trigger to believe advice is worth paying for:

Table 10: When it comes to planning your retirement income and/or how you access your pension, how much money do you think you would need to have saved for you to deem it worthwhile to pay for financial advice (in pounds)? (Customer)

0-5000	11%
5001-10000	3%
10001-12500	4%
12501-15000	3%
15001-20000	5%
20001-30000	8%
30001-40000	5%
40001-50000	6%
50001-75000	10%
75001-100000	7%
100001-150000	9%
150001-200000	2%
200001-250000	3%
250001-350000	3%
350001-500000	2%
500001+	10%

This shows that around half would not consider advice unless their pot was at least £50k with some 10% probably never seeing advice as worth seeking.

Q4: Do you have any comments or evidence on the level of demand for advice from sources other than professional financial advisers?

We recognise the challenge for the Review to accommodate a market where, increasingly, consumers pick up information from multiple sources, and where there is often scepticism about the value of advice. Consistent with our over-riding recommendation that advice services are defined in terms of customer benefits, it is vital that the risks of self-service and the limited protections with guidance are made clear. Subject to this clarification, we believe the market should be allowed to develop so that consumers can access a range of advice services, and that, crucially, they can move smoothly to a fuller service if they are not confident in making a decision.

Q5: Do you have any comments or evidence on the types of financial needs for which consumers may seek advice?

We agree that financial needs vary between individuals and are often prompted by a life event or life stage.

Our research sought to find out which financial needs customers would currently seek advice for, where they are comfortable making their own decisions, and what they have been raising with their advisers.

Table 11: Which of the following decisions would you ever seek (paid for) full financial advice for? (Customer)

Choosing a savings product (e.g. bank account, instant access savings, cash ISA)	5%
Choosing a car insurance policy	3%
Choosing a home insurance policy	4%
Choosing a mortgage	25%
Selecting a pension product	21%
Arranging life insurance	12%
Making an investment in the stock market or equity fund	27%
Deciding upon how you want to access your pension at retirement	20%
Consolidating your pension saving into one pot / transferring a pension from an existing provider	21%
Planning your retirement goals and where to invest your money to meet these goals	21%
Making plans to mitigate inheritance tax	26%
Increasing your contribution to an existing pension	10%
Reviewing investment performance and potentially changing the funds / stocks you're invested in	23%
Review your appetite for risk (i.e. investing in riskier stocks for a potentially high return)	17%
None of the above	34%

Table 12: The regulators define full financial advice as a personal recommendation from a qualified individual given after due consideration of your personal circumstances and objectives. Which of the following decisions would you be happy and confident to make without full financial advice? (Customer)

Choosing a savings product (e.g. bank account, instant access savings, cash ISA)	62%
Choosing a car insurance policy	60%
Choosing a home insurance policy	58%
Choosing a mortgage	37%
Selecting a pension product	23%
Arranging life insurance	39%
Making an investment in the stock market or equity fund	15%
Deciding upon how you want to access your pension at retirement	19%
Consolidating your pension saving into one pot / transferring a pension from an existing provider	13%
Planning your retirement goals and where to invest your money to meet these goals	13%
Making plans to mitigate inheritance tax	10%
Increasing your contribution to an existing pension	21%
Reviewing investment performance and potentially changing the funds / stocks you're invested in	12%
Review your appetite for risk (i.e. investing in riskier stocks for a potentially high return)	10%
None of the above	18%

The research shows that there are relatively few financial products where people generally are confident acting on their own. It appears to be only those products people interact with on a regular basis and where they can compare simple features and costs, or where there is a requirement/the consumer recognises there is a risk of significant loss otherwise.

By contrast, for pension, investment and mortgage decisions confidence was far lower. For example, just 23% of people said they would be confident selecting a pension product, with even fewer (19%) confident in deciding how to access their pension at retirement or in making an investment in the stock market (15%).

As a result, we agree with the proposal in the Review to focus on ‘advice’ needs in the investing, pension and ‘at retirement’ spheres. We sought to understand in more detail which areas of pension customers felt confident making decisions themselves. We also wanted to compare this with where advisers are being asked for advice in respect of the pension freedoms.

Table 13: With regards to your pension specifically, how confident are you about making decisions on each of the following issues: (Customer)

	Very confident	Quite confident	Neither confident or unconfident	Quite unconfident	Not at all confident	N/A
Joining a pension scheme	19%	35%	22%	6%	3%	11%
Deciding a retirement date	22%	30%	23%	7%	3%	11%
How much to pay into a pension scheme	17%	33%	24%	9%	3%	11%
Where to invest your pension	10%	21%	31%	15%	8%	12%
Reviewing your pension performance	11%	24%	29%	15%	6%	11%
Deciding how much cash I want to take as a lump sum from my pension	15%	26%	25%	14%	6%	10%
Deciding how much income I want to take regularly from my pension	14%	27%	26%	14%	5%	11%
Understanding the tax implications of taking money from your pension	12%	24%	25%	18%	9%	10%

It appears from our research that a small majority of people are confident with the type of decisions associated with joining a pension scheme, such as setting a retirement date (52%) and deciding how much to pay-in (50%). However, confidence levels drop significantly for decisions associated with managing a pension. For example, just 37% are confident reviewing performance, and only 36% are confident about understanding the tax implications of accessing a pension. These elements are just as important in achieving an adequate retirement fund, and accessing it tax-efficiently.

This shows that customers have differing degrees of confidence not just between ‘products’ but on different aspects of pensions planning. This may mean some might want advice on only certain elements. Allowing customers to review what they might seek advice on and allowing them to ‘pick and mix’ might stimulate greater demand for advice. In particular, customers are less confident on investment related matters, suggesting there could be a demand for investment advice as a standalone item.

We believe many customers would benefit from additional support when considering transferring funds from previous pension schemes, including consolidating multiple pots. This may warrant specific focus.

Table 14: What are the most common issues clients are raising regarding the new pension freedoms? (Adviser)

Investment advice regarding income drawdown	48%
Advice on whether to give up safeguarded benefits in order to access pension freedoms	37%
Whether to opt for a guaranteed income such as guaranteed drawdown or annuity	34%
How and when to make additional pension contributions	26%
When they should access their pension savings	17%
Whether to take all their pension savings as cash	10%
I don’t know	2%

This again suggests customers may value advice differently on separate aspects of pensions. In line with weaker consumers’ confidence on investment matters, it is investment advice in drawdown that is the most common issue clients raise with advisers. Advisers need to have confidence that focussing solely on investment matters rather than other pensions matters will not create regulatory difficulties for them.

Q6: Is the FCA Consumer Spotlight segmentation model useful for exploring consumers’ advice needs?

We agree that advice needs are typically more clear for certain groups, although it may be driven more by events, which are correlated with, but do not map perfectly to, the consumer groups. We are not clear at this stage how far these consumer types will be used to direct the Review solutions. Please see our response to Question 7.

Q7: Do you have any observations on the segments and whether any should be the subject of particular focus in the Review?

Given limited time and resources, and the urgency of providing help to consumers in light of the pensions freedoms, we support the Review's intention to focus on areas where advice will make the biggest difference. We also agree with the high level proposal to focus on investing, saving into a pension and taking an income in retirement. This is consistent with our research findings which suggest it is these areas that consumers are less confident in.

However, we think that protection, while in some cases less complex as per the table on page 10, is essential for consumers. People are generally under-protected and finding better ways to deliver advice services may be necessary to tackle this.

As noted above, the lack of direct mapping from the consumer segments to the three proposed areas of focus means that we are less convinced about using these groups to identify actions for the Review. Since the Review is about 'advice' in the widest sense, we believe that it may be more effective to consider the type of advice that is required, rather than who needs it. This ties in with our view - see Question 4 - that the same consumer may use different types of 'advice' at different stages, or even at the same stage, for different areas of need.

The Review's terms of reference mention the demand side of the market and the need to equip consumers to make effective decisions about their finances. We support this and believe that it should encompass financial education at all stages of life, although we appreciate that this is a long-term objective, requires considerable planning and effort and is not a 'silver bullet'.

Finally, out-of-control personal debt reduces the likelihood that individuals take advice on savings, investment and pensions, and this in turn increases the chances that they will be dependent on the state in future. We therefore think that debt 'advice' is a key part of the picture.

Q8: Do you have any comments or evidence on the impact that consumer wealth and income has on demand for advice?

It is hard to differentiate between a latent demand for advice and the effect of barriers, including cost, which stand in the way of that advice being accessed. Clearly, advice can be more affordable for those with greater wealth or income. However, our research shows that the amount people are prepared to pay for advice does not rise in proportion to wealth or amount to invest.

Table 10 provides our customer research findings on the size of pension fund customers believe is needed before it becomes worthwhile to pay for advice. Around 50% of consumers believed that it was not worth seeking advice until they had a pension fund of over £50,000.

We also wanted to explore how much consumers would be prepared to pay for advice, and if that changes significantly where the individual had a higher amount to invest / get advice on.

Table 15: If you were deciding upon where to invest £50,000, how much would you be willing to pay for this financial advice (in pounds)? (Customer)

0-50	24%
51-100	15%
101-250	18%
251-500	14%
501-750	4%
751-1000	1%
1001+	<1%
I don't know	20%

Table 16: If you were deciding upon where to invest £250,000, how much would you be willing to pay for this advice (in pounds)? (Customer)

0-50	15%
51-100	12%
101-250	17%
251-500	17%
501-750	7%
751-1000	6%
1001+	3%
I don't know	20%

Key observations here include:

- The amounts consumers are prepared to pay are substantially below how much a financial adviser would currently need to charge to cover their costs.
- The amount consumers are prepared to pay does not increase dramatically when the amounts being advised on increase from £50,000 to £250,000.
- Our research does not provide insight into whether customers decide not to seek advice because they know it will cost more than they are prepared to pay or if they simply believe that will be the case.

Q9: Do you have any comments or evidence on why consumers do not seek advice?

We agree with the eight areas listed, and in particular lack of knowledge, lack of trust and poor engagement. The costs involved are also a key issue.

We would suggest two further areas:-

- Lack of appreciation of the 'value' of advice and different forms available
- Appreciation of the total value of their investments. This might be resolved through the growth of platforms and the proposed pensions dashboard

Q10: Do you have any information about the supply of financial advice that we should take into account in our review?

Our research explored where advisers see the barriers to offering advice.

Table 17: What do you think the biggest barrier to extending financial advice to a broader range of people is? (Adviser)

Increasing regulatory cost of providing advice such as personal indemnity insurance	26%
A lack of suitable products that can be offered to the mass market	24%
The need to improve people's understanding of the value of advice	22%
Complexity of regulation	16%
The requirement for customers to pay explicitly for advice	6%
The size of assets required to make advice financially viable for the adviser	4%
There are no barriers to extending financial advice to a broader range of people	<1%

Interestingly, advisers were less concerned that customers weren't prepared to pay for advice but did offer suggestions around how advice could be made more attractive and on barriers to them extending their services. The most commonly cited challenge was the increasing regulatory cost of providing advice (26%), followed by a lack of suitable products that can be offered to the mass market (24%), then the need to improve peoples' understanding of the value of advice (22%).

Q11: Do you have any comments or evidence about the recent shift away from sales based on professional advice, and the reasons for this shift?

We agree that the six factors listed here are relevant. There is clearly interplay between them, e.g. with supply of digital services increasing to reflect a general trend for online retail activity. However, there is an important distinction to be made between people who are driven away from professional advice due to negative perceptions, and people who are making use of new services that better suit their preferences.

The gradual roll-out of auto-enrolment may also be reflected in a growing number being regarded as non-advised.

Q12: Do you have any comments or evidence about the role of new and emerging technology in delivering advice?

The role of technology will continue to grow across the provision of advice, in the widest sense of the word. In delivery mechanisms alone, the level of smartphone/tablet use means that firms have to develop new ways to interact with new and existing customers. As well as meeting customer expectation of online services, this allows new tools and functionality to be introduced. This offers huge advances in terms of engagement while also presenting cost-saving opportunities for the provider once initial investments have been recouped. In addition, as the FCA itself recognises, using technology may be easier to regulate than face-to-face advice: we believe the methodology of the underlying algorithm(s) can be easily assessed and understood.

We welcome the Review's openness to technology-based solutions, and believe that the solutions must recognise the potential for 'pick and mix' activity by consumers, where different types of service from different sources are used at different times or even simultaneously to obtain an overall advice service. This is one area where greater distinction between 'advice' and 'advice with a personal recommendation' would be particularly helpful both for providers in terms of development and for customers to understand where their responsibility lies.

Q13: Do you have any comments on how we look at the economics of supplying advice?

Since we do not currently provide advice, others will be better placed to comment here. However, the key economic concern among those offering advice is the potential future liability, principally from the FOS. This creates both financial and reputational risk

Q14: Do you have any comments on the different ways that firms do or could cover the cost of giving advice (through revenue generation or other means)? Do you have any evidence on the nature and levels of costs and revenues associated with different advice models?

We believe there is scope to leverage workplace pensions to reach a wider population in a cost-effective way, which we cover in our answer to Q39. There have previously been discussions around providing customers with a voucher which they could then use towards advice. If this were introduced, advisers would be able to cover part of their costs through the public subsidy inherent in these vouchers. It may be more difficult to operate this in parallel with Pension Wise.

Q15: Which consumer segments are economic to serve given the cost of supplying advice?

We asked advisers when they believed it was justifiable for consumers to seek advice based on the sum invested.

Table 18: In your opinion, how much money do you think someone needs in investments or a pension before it's justifiable to pay for financial advice? (Adviser)

£6-£10k	8%
£11-12,501	22%
£12,501-£15k	13%
£16-£20k	9%
£21-£30k	6%
£31-£40k	9%
£41-£50k	14%
£51-£75k	12%
£76k-£100k	4%
£101-£200k	<1%

Comparing this with Table 10 shows that advisers believe advice is justifiable at significantly lower levels of fund than consumers do. The median for advisers is just under £20,000 which compares with a median for consumers of around £50,000.

Q16: Do you have any comments on the barriers faced by firms providing advice?

We provided our research findings in Q10.

Again, we agree with the factors listed here, particularly regulatory clarity and liability. On liability, we fully support the existence of the FOS as an independent dispute resolution service, but consumer responsibility is also essential and we do not think that the balance is fair at present. The role of claims management companies is also unhelpful in this respect and we look forward to the outcome of the Ministry of Justice's work on the regulatory framework for this area.

The FCA was clearly and rightly tasked with being a strong consumer champion, but in our view this should not prevent it from setting out what should be expected from the consumer. Our proposal to define services in consumer terms, including who is responsible for decision-making and the level of consumer protection, is intended to help with this. In no way do we intend this to replace firms' responsibilities to comply with the letter and spirit of the FCA's rules, however these could be improved by carrying out a review of where personal responsibility starts and stops.

Similarly, the FCA's proposed consultation on the FSCS funding model has the very important job of finding a more equitable system, and we urge the FCA to progress this as soon as possible.

The pension freedoms have provided a boost in terms of customers' funds. However, pots can be below the economically viable level, particularly where ongoing advice would be appropriate, for example in drawdown.

Q17: What do you understand to be an advice gap?

We recognise the challenge in creating a definition. As a measure of the success of the Review, as drafted we think it will only cover cases where (as a result of Review changes) consumers become happy to pay the price of a given service, either because its price has reduced or they perceive more value in the service, or both.

Again using the word 'advice' in the wide sense, the definition also needs to cover those who are prepared to pay for a different service which still meets their need. E.g. if the cost of a service can only be decreased by reducing the regulatory protection, it is effectively not the same service, although it could still be something the consumer wants. A change from 'the form of advice' to 'a form of advice' would address this.

A simpler way of describing this is that most customers would naturally like a bespoke and professional advice service at very low cost, but the Review will not be able to deliver this. The word 'want' is problematic - the aim could be better expressed in terms of a service they would benefit from or would seek out if they understood the benefits better.

Q18: To what extent does a lack of demand for advice reflect an advice gap?

Only to the extent that all consumers are fully aware of the benefits of taking advice and the risks of not acting or acting without help. We do not believe that consumers are in this position, so we agree that there is an advice gap, evidenced for example by the number of people who are not making adequate retirement provision.

Q19: Where do you consider there to be advice gaps?

We believe that the gaps exist across all areas of financial advice, although to different degrees and with different levels of impact. Our starting point is that advice is worthwhile for consumers, but our research indicates that they are accessing advice in limited numbers, even though they are typically not confident in making their own decisions on many financial matters. As per Q7, we agree with the focus of the Review, subject to the addition of protection and debt advice, in that it should tackle the areas where the impact is greatest.

Q20: Do you have any evidence to support the existence of these gaps?

More than two thirds of advisers we surveyed agree there is an advice gap. This is in line with our belief.

Table 19: Do you believe there is an advice gap in the market? (Adviser)

Yes	68%
No	31%

Q21: Which advice gaps are most important for the Review to address?

As in our previous answers, we think advice needs are more often driven by events than consumer type. So improving access to advice for those affected by the pensions freedoms is essential, and in the longer-term, focus on investing, saving into a pension and taking an income in retirement seem to be the right areas. In general, we agree that the other areas set out in the table columns on page 20 of the Call for Input are generally less complex and that consumers are more likely to already have access to the support they need, with the exception of protection, as covered in Q7.

Q22: Do you agree we should focus our initial work on advice in relation to investing, saving into a pension and taking an income in retirement?

Yes, along with the addition of protection - see our response to Q21.

In our response to the FCA's Retirement Outcome Review, we considered the different sources of support/advice customers might seek as they transition in to retirement. We believe this analysis is also pertinent to this review. The table below is an extract from our response.

Stage	Support	Issues
Awareness of options	Provider, Pension Wise, adviser	May become aware too late – e.g. to amend investment strategy
Understanding of options and personal benefits and risks	Provider, Pension Wise, adviser	Timing of delivery of Retirement Risk warnings
Choosing the best option	Adviser or self-directed	Failure to appreciate value of advice
Selecting / investing in a regulated product	Adviser or self-directed	Ability to self-select
Ongoing (e.g. drawdown)	Adviser or self-directed	Failure to appreciate longevity risk or to monitor fund performance

We see real potential to offer customers an additional option between full advice and non-advised/self-directed. If constructed appropriately, this option could help address the issues we identify with the current options.

Q23: Do you agree we should focus our initial work on consumers with some money but without significant wealth? What exact income/wealth thresholds should we use to determine which consumers we will focus on?

Yes. Outside of this definition, at one end consumers will have financial needs that can be adequately met by existing non-regulated services. At the other end, those with significant wealth will be able and willing to make use of existing regulated services. However, we do not think it is practical or necessary to define the thresholds. Instead it is best to tackle the types of service that will most commonly be needed by these types of customer.

Q24: Are there aspects of the current regulatory framework that could be simplified so that it is better understood and achieves its objectives in a more proportionate manner?

The FCA guidance (FG15/1) on the boundaries for advice has left many in the industry, including Aegon, with questions. Clarity here is vital for firms to innovate while observing the appropriate level of regulation.

In addition, the disclosure rules require us to provide information in a format which, we believe, customers struggle to understand and which discourages engagement with retirement planning. We note and welcome the FCA's work on Smarter Consumer Communications, and have responded to that separately.

On the wider regulatory framework, the requirements on data protection and anti-money laundering can also present barriers. For example, in the case of data protection, customer consent around use of their data can be an obstacle when we want to get in touch to help them.

There are also future opportunities with big data for customer analysis to enhance our profiling of vulnerable customers who may need support and guidance. Future European directives in these areas may present opportunities, but how the UK interprets and implements them will be important, and we would like a commitment on this to be part of the output from the Review.

Q25: Are there aspects of EU legislation and its implementation in the UK that could potentially be revised to enable the UK advice market to work better?

We note the comment in the Call for Input that the expectation is that 'the main recommendations of the Review will not be dependent on changes to the EU legislative framework'. We support this, and believe that influencing future legislation is more effective.

In terms of execution-only services, while pension products are out of scope of MiFID II, a key question is whether FCA chooses to gold-plate and extend its rules to bring pensions into the scope in implementing MiFID II. The FCA may also choose to classify pension products as 'complex' which brings in the appropriateness test, which is the provider's assessment of the consumer's knowledge and experience. We have already highlighted to the FCA the difficulties that may arise in bringing pensions into scope of its rules in responding to its Discussion Paper, DP15/03. (In summary, given that pension products are designed and marketed with consumer retirement objectives specifically in mind, it would undermine the intention of existing consumer protections if customers face too many hurdles when trying to transact on an execution-only basis. Looking through a consumer lens, we do not think additional barriers and warnings will encourage consumer engagement in their financial futures; they may simply put people off making the right decision.)

In the middle ground between personal recommendations and execution-only, where we believe most flexibility exists, if FCA copies across the MiFID II provisions directly, we understand the appropriateness test would still apply. However, much depends on the FCA's intentions here. We believe for this form of service, a better start-point is to explore what options may be possible that sit between a personal recommendation and execution-only services, which would then lead on to explore what protection mechanisms should exist in addition to those already in place, such as TCF and product governance arrangements. The solution for this form of advice should be driven by what HM Treasury, with FCA, deem appropriate before any decisions are made as to the applicability of MiFID II rules to pensions in the UK.

Q26: What can be learned from previous initiatives to improve consumer engagement with financial services?

We welcome the Review team's clear willingness to learn from previous initiatives. Our main point is that the engagement will need to be mainly supply-driven and therefore sufficiently profitable for the firms involved. Without huge amounts of advertising spend, it's unlikely that a safe harbour product brand can be established in the target consumers' minds - partly because of the confusion with previous initiatives - in the short term at the very least. Any long-term initiative may fall victim to future government fiscal policy, whereas stability is essential.

This key question is whether a supply-driven change can avoid presenting unacceptable risks to consumers. The FCA's COBS rules do not accommodate advised services which aim to provide a good outcome rather than the best possible outcome, and neither is the regulatory culture (both at FCA and FOS) compatible with this concept. This will need to change for a safe harbour advice service to work, and we believe an essential step towards this will be obtaining clarity and agreement from the outset about what a new type of service would mean in practice for consumers as a group. This would be a best –efforts attempt to measure the likely outcomes against the outcomes from full advice, and set this as a baseline of what is acceptable in order to meet the policy aim.

Part of the reason for the above would be to tackle the FOS liability issue, which will need to be thoroughly covered off to the satisfaction of potential advice providers. This will take considerable work behind the scenes and potentially legislative change.

Finally, the professional standards requirements, particularly the QCF Level 4 qualification, are too demanding for a service involving restricted complexity and product range. We believe that the economics don't stack up, in that people who have achieved Level 4 will expect more remuneration than can be funded by the limited margins and will be equipped to occupy professional advice jobs that would potentially pay considerably more.

Q27: Are there any approaches to the regulation of advice in other jurisdictions from which we could learn?

Many of the features of foreign jurisdictions referred to in the Call for Input replicate the UK, and the FCA is seen as a leader internationally. Indeed, our US and Netherlands colleagues are interested in the Review as they have concerns that RDR style regulation in their countries will produce the advice gap which the Review is now seeking to tackle at UK level.

However, in general, we support the Review’s efforts to learn from overseas approaches, where they address similar problems to those in the UK, and where the nature of the market and the consumers is similar enough to make it potentially transferable.

Q28: What steps can be taken to address behavioural biases that limit consumer engagement without face-to-face advice?

The main factors as we see them are lack of interest in dealing with financial matters, lack of trust in financial services providers (even for non-advised services), and perceived or real complexity. These are deep-rooted and will take major effort to change. We believe that digital solutions are essential to reach consumers in the way that they want to interact, and to simplify the choices facing them. Making sure that the regulatory framework accommodates and supports these models is key. Project Innovate and the Regulatory sandbox are very positive developments here, but the FCA needs to be continuously focussed on this supportive tone being carried through the organisation, subject of course to its consumer protection objective being delivered.

Our customer research did highlight lack of trust in both digital and phone-based advice.

Table 20: Would you trust digital financial advice? (i.e. based on completing an online questionnaire and then allowing a computer algorithm to assess your attitude to risk and as a result recommend investment options) (Customer)

Yes	24%
No	75%

Table 21: Would you trust full financial advice over the phone? (Customer)

Yes	16%
No	83%

However, this needs to be seen in the context of the majority of those we surveyed never having sought full financial advice on pensions.

Table 22: Have you ever sought full financial advice about your pension provision? (Customer)

Yes	22%
No	77%

As part of helping customers understand the options for seeking advice, more needs to be done to demonstrate the value that digital advice can offer.

Q29: To what extent might the different types of safe harbour described above help address the advice gap through the increased incentive to supply advice?

As noted above, dealing with advice firms' concerns about liability is vital for success. We are not convinced that further guidance or evidential provisions would be enough for the major change needed. Although they may help some firms, for others they would only shift the point at which they become uncertain. We believe there needs to be a more prescribed solution and that it should apply in two areas, first in focused (but professional) advice on a particular area of need, and second, in relation to a safe harbour service. We prefer the approach of changing the rules to recognise this rather than protection being offered from a breach in the rules, which is culturally uncomfortable for regulated firms.

Q30: Which areas of the regulatory regime would benefit most from a safe harbour, and what liabilities should a safe harbour address?

In line with our answer to Q29, to facilitate the two areas mentioned would require changes that make supplying the advice less onerous, and that reduce the liability. The former would mainly sit in the Conduct of Business Sourcebook, around suitability and suitability letters, but also, for safe harbour services, in the Training and Competence Sourcebook. The latter needs to encompass all expectations on the firm when complaints are made, from the FCA's rules on Dispute Resolution to the Ombudsman's rulings, through to FSCS coverage and funding.

Q31: What steps could be taken to ensure that a safe harbour includes an appropriate level of consumer protection?

We have noted above a key point that we believe services should be defined partly with reference to who takes responsibility for the advice. Consistent with this, disclosure would need to be in place to make certain that users of these services understood this, and that they should not use the service if they are not comfortable with this. The products should perform as described, while recognising the inherent uncertainty of certain types of investment.

But there does need to be acceptance that, in order to reach more customers, a sometimes sub-optimal outcome (compared against full advice) is acceptable and that this is not out of line with other markets. To make it affordable for the mass-market, advice has to be commoditised and bespoke solutions are not viable. We strongly believe that customers can receive affordable solutions that will make them better off than they would be without any form of advice. But as a starting point, there should be clarity and agreement about what this means (and what it should not mean) in practice for consumers as a group.

We see a parallel with auto-enrolment here, in that Government policy recognises that not all employees will be in the best workplace scheme available, but that they will generally benefit from participation, particularly with the governance and quality standards around qualifying / auto-enrolment schemes.

With reference to the design of a 'middle service' between full advice and non-advised, setting criteria for the products that can be promoted through this service might allow the FCA to go further in lightening the regulatory regime. For example, one possible approach would be only including products designed by firms to be sold as non-advised.

Q32: Do you have evidence that absence of a longstop is leading an advice gap?

We have no evidence here.

Q33: Do you have evidence that the absence of a longstop has led to a competition problem in the advice market e.g. is this leading to barriers to entry and exit for advisory firms?

We do not have evidence, but we believe it is worth revisiting liability, including adviser liability, if customers can be made clearer about the nature of the services available in the marketplace, in particular what responsibility the customer has, and what right of redress they have, if any.

Q34: Do you have any comments about the benefits to consumers of the availability of redress for long-term advice?

There must now be a very limited number of cases where customers are not aware when something has gone badly wrong with their advice, given the number of regulatory reviews, regular receipt of statements from their provider, and the activity of claims management companies. Subject to proper analysis, this may support a long stop as it would improve advisory firm confidence without making much difference to customers' ability to bring claims.

Q35: Do you have any comments or suggestions for an alternative approach in order to achieve an appropriate level of protection for consumers?

No comment.

Q36: Do you have any comments on the extent to which firms are able to provide consistent automated advice at low cost? Are you aware of any examples of this, either in the UK or other jurisdictions?

No comment.

Q37: What steps could we take to address any barriers to digital innovation and aid the development of automated advice models?

We are encouraged by the resources committed to Project Innovate, and the FCA's efforts to demonstrate that it is available to existing as well as new firms. The biggest challenge across the FCA may be a cultural one, where it and the FSA have been used to issuing regulatory material and expecting firms to interpret it themselves. We do recognise the challenge of giving guidance to different firms, in different scenarios, which may later appear to be inconsistent, but urge the FCA to find ways to manage this.

The suggestions we make elsewhere in this response, including greater clarity of definition, would apply to these models as much as those directly involving advisers.

Q38: What do you consider to be the main consumer considerations relation to automated advice?

Our research finding gives an indication of the barriers to be overcome for at least one type of automated service.

Table 23: Would you trust digital financial advice? (i.e. based on completing an online questionnaire and then allowing a computer algorithm to assess your attitude to risk and as a result recommend investment options)

Yes	24%
No	75%

As mentioned in our response to Q28, this needs to be considered in the context of the majority of those surveyed never having sought full financial advice.

Q39: What are the main options to address the advice gaps you have identified?

In summary, we propose facilitating a form of guidance, possibly based on a limited range of safe harbour products, which would bring less strict regulatory requirements while still offering sufficient consumer protection and, crucially, being of good enough value to improve consumers' long term financial positions. There is much to do to specify how this would work, not least the range and nature of products to be included and how the requirements can be adjusted. We have the advantage of being able to learn from previous initiatives, and our response to Q26 gives our view of the starting point here.

In light of the central role that that the workplace plays in pension saving, we think there is scope for the service described above to be offered to employees through the workplace. We also think it has great potential to make use of digital distribution, providing the scale that is necessary to address the advice gap.

We also propose reducing the catchment of the regulatory requirements around full advice, by recognising and making provision for advice on a particular area of financial need. While the FCA recognises this very common scenario, the regulatory treatment is essentially the same as for full advice. We note that this the EU regulations recognise the role of focused advice.

Finally, we think it is worth exploring whether advisers could be permitted to give 'guidance' to employees in a similar way to Pension Wise. We understand the risks of guidance running over in to advice, and of commercial drivers creating conflicts of interest, but suggest consideration of a standardised format and content. An adviser carrying out this role could be required to state at outset what service is being provided and what other services are available if some employees needed more than guidance. These other services could then be agreed separately and would be subject to the usual regulatory protections.

Q40: What steps should we take to ensure that competition in the advice markets and related financial services markets is not distorted and works to deliver good consumer outcomes as a result of any proposed changes?

We believe that some of the groundwork here has been done by the RDR. We are not proposing any move back to a commission-based model for safe harbour services. Future work should concentrate on collaborating with industry to specify the framework that should govern this type of service, and on designing disclosure that recognises past weaknesses and can be adapted for digital solutions.

Q41: What steps should we take to ensure that the quality and standard of advice is appropriate as a result of any proposed changes?

We agree with the Review Team's analysis about the difficult balancing act here. However, we are optimistic about solutions because we believe that the wider public policy needs are now better understood. We welcome the collaboration between the FCA and HMT here and see this as creating a real opportunity to best align public policy objectives with appropriate regulation.

We also agree that the industry’s reputation, particularly among some of the likely providers of scale solutions, can ill afford further damage at this time. To this end, as we have said above, clear consumer understanding of their responsibilities is needed. If we can deliver that, recognition of the starting point by the regulator and Ombudsman needs to be worked into their future policy and approach, and firms must have certainty that this will be the case.

Consultation Response

HM Treasury: Financial Advice Market Review

December 2015 Ref. No. 3715

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About this consultation

The Financial Advice Market Review was set up to examine how financial advice could work better for consumers, particularly those without significant wealth. It aims to ensure the regulatory and legislative environment allows and encourages firms to innovate and grow their business models to include affordable and accessible financial advice, and to consider ways to encourage people to seek financial advice, addressing unnecessary barriers that currently deter them.

Key points and recommendations

- Age UK research shows very little reliance on professional advice among older age groups. However, this does not mean that there is no need for advice of various types, and we expect need to grow as a result of the 'freedom and choice' reforms.
- Advice gaps are particularly evident in: planning for long-term care costs; drawing a pension; interaction of pensions with debt and benefits; ongoing management of retirement savings; mortgage lending in retirement, and how to repay an unpaid interest-only mortgage; advice on dealing with legacy issues; support with day to day money management, particularly for people in later old age.
- We recommend keeping two simple labels such as 'advice' and 'guidance', subject to consumer testing. However, we would be concerned about drawing the regulatory barrier more tightly in a way that reduces consumer rights to redress.
- Where possible, the need for advice should be minimised, for example by developing 'default' options on drawing a pension.
- Pricing structures that make it difficult to be sure how much advice is going to cost are a major barrier to engagement. FCA's innovation hub should support the industry to develop set-price models of advice, making full use of automated technology. If automated advice systems are developed, there must be appropriate backup from a trained adviser, by telephone or face to face, and special support for those not online.
- FCA should consider whether the fact finding process is a disincentive to take advice, and whether the process could be stream-lined through a standard fact find, which the consumer is supported by guidance to develop. Some form of 'know your customer' process might still be necessary, to establish aims and objectives, but we hope that this would simplify the process.
- A 'pensions dashboard' could play a crucial part in both improved consumer engagement and any stream-lined fact finding process, and the Government must prioritise and pay an active part in its development.
- Employers potentially have an important role to play and should be incentivised to provide access to guidance and/or regulated advice.
- Professional advice will need to work together with free, impartial public financial guidance, supported by moves to improve financial capability in the general population. We would like to see a 'white labelled' automated system developed for use by appropriately trained money guidance 'coaches'. However, this should be developed and tested with a range of people to see what works in practice.
- Consumer engagement is always likely to be a challenge and triggers for action are essential. We would like to see a joined-up information, guidance and advice journey to help people prepare for later life, starting with a mid-life career review, moving on to at-retirement pensions guidance, and with a guidance session in later life.
- We do not support proposals for a longstop time limit to liability for advice.
- Whatever the outcome of this consultation, we urge the Government to allow adequate time for consultation and consumer testing on the detail of on any proposals.

Introduction

Age UK is the country's largest charity dedicated to helping everyone make the most of later life. We believe in a world where everyone can love later life and we work every day to achieve this. We help more than 5 million people every year, providing support, companionship and advice for older people who need it most. This response is written from the perspective of advice needs in later life.

Age UK agrees that there is an advice gap, but the overall need is much broader than that usually covered by professional advice. Our own experience as a provider of information, guidance and (non-regulated) advice is that support is often needed at the front end – translating jargon, helping people understand and sort out what they already have, and spotting the gaps – before they get anywhere near a recommendation for action. And equally, a lot of support might be needed with managing a transaction.

We see a spectrum of need, ranging from support with day-to-day money management, through to planning ahead for a future need, and ending with advice in a crisis – bereavement, debt, or simply when it is no longer possible to put off a decision (for example when drawing a pension). These advice needs are messy, often overlap, and are difficult to carve up into neat categories. For example, someone with a lump sum on retirement may well be faced with a decision on whether to use it to pay off a mortgage, save it in cash against a future need, or re-invest it for income.

The existing provision of advice and guidance is highly diverse, ranging from information, guidance, financial planning, support with undertaking a transaction, through to advocacy and casework. Again, these may be difficult to carve up into categories; and there may be gaps in one area but not another. For example, someone seeking advice on whether to use their pension to repay an unpaid mortgage may need Pension Wise guidance on their pension options, debt advice on the mortgage, and regulated advice on whether they should actually dispose of their pension (as selling a regulated product is within the regulatory boundary). Therefore, this response must be read in conjunction with our response to the consultation on Public Financial Guidance.

There is a tension between increasing access and reducing protection, and the arguments are finally balanced and highly technical. Whatever the outcome of this consultation, we urge the Government to allow adequate time for consultation and consumer testing on the detail of any proposals.

Filling the advice gap

When thinking about how to fill the advice gap, we recommend that the Government first considers whether there are areas where default or standard solutions can be offered, rather than individual (and expensive) advice. Automatic enrolment into pensions, for example, has done more to boost pension saving in the last few years than any amount of advice and exhortation. We would like to see similar default or standard solutions created at retirement.

We would also support greater use of automated solutions, such as computer programmes allowing tailoring and filtering of information and options to meet individual needs, provided that there is appropriate backup from a trained adviser, either by telephone or face to face. We believe such automated solutions could both allow people who are confident to self-serve, and also support the provision of high quality guidance (telephone or face-to-face), backed up by regulated advice if necessary. This begs the question of who should be permitted to do this, and what protection the consumer would have.

The automated system, and any supporting telephone or advice service, must be impartial. We accept that providers with whom the client has an existing relationship are more likely to be trusted and approached, and have an extremely important role to play in providing information and supporting individuals with transactions involving existing products. However, we would have concerns on competition grounds about a product provider issuing guidance on purchasing products it sells itself. Such situations should always be referred on to an independent source for recommendation from a range of providers, and where appropriate advice. The annuity open market option and pensions guidance have demonstrated that it is very difficult to get consumers to shop around, and helpful information from a provider (or even advice to shop around) may have the unintended consequence of actually encouraging consumers to purchase from them, however poor their products.

We would welcome the development of a standard automated programme by an independent agency that could be used by non-regulated bodies, including non-profit advice agencies such as Age UK. This should be supported by individual guidance and an impartial adviser directory, such as that developed by MAS. To provide some safeguards and deter fraudsters, some form of licencing or contractual agreement could be required to use the programme, or the ‘designated provider of guidance’ regime could be extended beyond pensions.

We would also like to see simplification and rationalisation of the fact-finding process. We understand that the current process, where every adviser goes through their own full fact-find, arises partly from compliance fears, but we strongly believe that the data belongs to the individual, not to the adviser, and they should be encouraged to own the process rather than being treated as part of a proprietary client bank, set up on adviser's own platform, for which the client may even be charged a fee. We would like to see the FCA work with the industry to develop standardised fact-finds – as has already happened, organically, in the development of a standard impaired life questionnaire in the annuity market. The adviser would still need to go through a 'know-your-customer' process to establish 'softer' facts such as aims and objectives, but it might be possible to streamline the process of data collection – particularly if a 'Pensions dashboard' is in place. We regard the Pensions Dashboard as a vital tool in this process, and urge the Government to prioritise and play an active role in its development. The non-profit sector could also play pay a useful role in helping clients with data collection for the fact find, although additional funding might be required to support agencies involved in this process.

Finally, there is clear market failure in the provision of advice. We do not accept the mantra that 'any advice is better than none': it may well be worse if it leads someone to take a very poor decision that is difficult or impossible to unwind or that results in substantial losses. Public policy now depends increasingly (as with the pension 'freedom and choice' reforms) on individuals making sensible decisions. Individuals should be entitled to expect impartial advice from a well-trained adviser. Unless there is full access for all to affordable regulated advice, a source of impartial, expert, and free guidance from a body with no commercial interest remains essential and Age UK supports a continued levy on industry to pay for it.

There may also be areas of regulated advice where there are no regulated advisers willing to provide a service at a price which individuals can afford – for example on whether or not to surrender an insurance policy to pay off debts, or whether or not to transfer a small defined benefit pension. In these cases, Government may need to look at a special regime to allow non-profit advisers to assist.

To improve consumer engagement, we would like to see a joined-up information, guidance and advice journey to help people prepare for later life, starting with a mid-life career review at about age 50, moving on to at-retirement pensions guidance, and followed by a guidance session in later life.

This is because if people have ready access to advice across all aspects of their financial lives – particularly the difficult areas – they are far more likely to engage. Receiving advice from well-known, trusted and competent sources needs to become an accepted part of the culture for people from all social and economic backgrounds.

2. Responses to questions

What do consumers need and want from financial advice?

Equality and diversity

1. ***Do people with protected characteristics under the Equalities Act 2010, or any consumers in vulnerable circumstances, have particular needs for financial advice or difficulty finding and obtaining that advice?***

   Yes. As age is a protected characteristic, the specific advice needs of older people are covered throughout this response (see our response to question 5) but some of these advice gaps may be compounded by other equality issues. For example, women's median pension wealth at age 55-64 is £99,100 compared to £174,100 for men[i]: they are therefore more likely to have difficulty accessing affordable regulated advice.

   These difficulties are also compounded by digital exclusion. Virtually all (99 per cent) of young adults have recently used the internet, but this falls to 71 per cent of those aged 65 to 74 and just 33 per cent of those aged 75 and over[ii]. If automated systems are developed, there must be alternative means of access for those online.

   An advice gap particularly affecting older people reflects the structure of the advice market. Because of the long tradition of remuneration on sales in most retail financial markets, until the move to fees following the RDR, there has been a tendency to concentrate on 'up-front' sales transactions, rather than advice on how to manage or sell existing products. Some older people may have an ongoing relationship with an investment manager or financial adviser but our research (see Question 3) suggests these are in the minority. Therefore, while promoting savings is important, this should not be a major focus of FAMR.

The demand for advice

2. ***Do you have any thoughts on how different forms of financial advice could be categorised and described?***

   The greater the number of sub-categories of advice, the greater the risk of consumer confusion. We therefore recommend keeping two simple labels such as 'guidance' and 'advice'. Consumers are likely to regard all personal interactions with a professional as 'advice' in any case, so it will be necessary to explain the implications of the regulatory status and any restrictions in scope to individuals at the time they need to know, rather than relying solely on a label.

   We would be open to the development of an alternative term to 'advice' such as 'regulated advice', however any new terminology should be tested with consumers and the incentive effects on industry should also be considered. For example, it would be worrying if relabeling 'advice' as a 'personal recommendation' had the effect of drawing the regulatory barrier more tightly in a way that reduces consumer rights to redress.

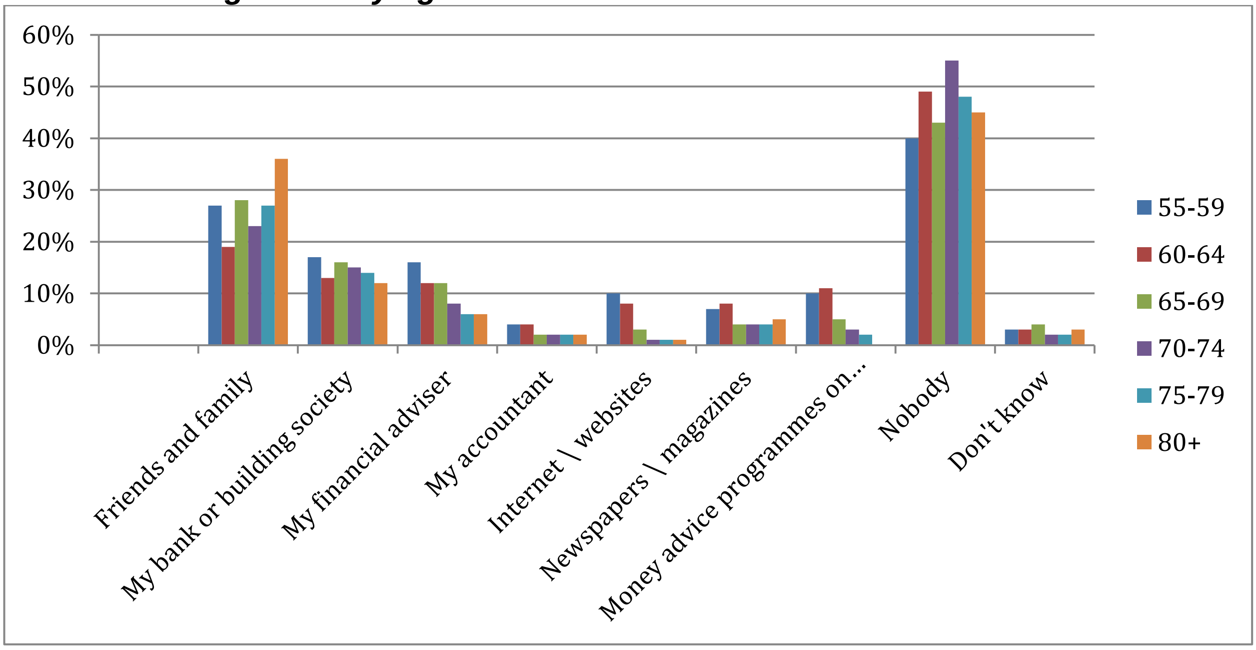
3. ***What comments do you have on consumer demand for professional financial advice?***

Age UK research shows very little reliance on professional advice among older age groups. However, as shown in our responses to questions 4 and 5, this does not mean that there is no need for advice of various types, and we expect need to grow as a result of the 'freedom and choice' pension reforms.

In February 2014 Age UK commissioned TNS to carry out polling among older people aged 50+. In line with many other surveys, across the whole sample reliance on friends and family was highest, at 25 per cent, then banks or building societies at 14 per cent, and financial advisers at 10 per cent. By far the largest category was 'nobody', at 46 per cent.

Breaking it down by gender, men were more likely to rely on 'nobody', and women were more likely to rely on 'friends and family'. Breaking it down by age (see Chart 1 below), there was little marked change except that use of financial advisers fell by age, and so did internet use, while from age 80+ reliance on friends and family grew.

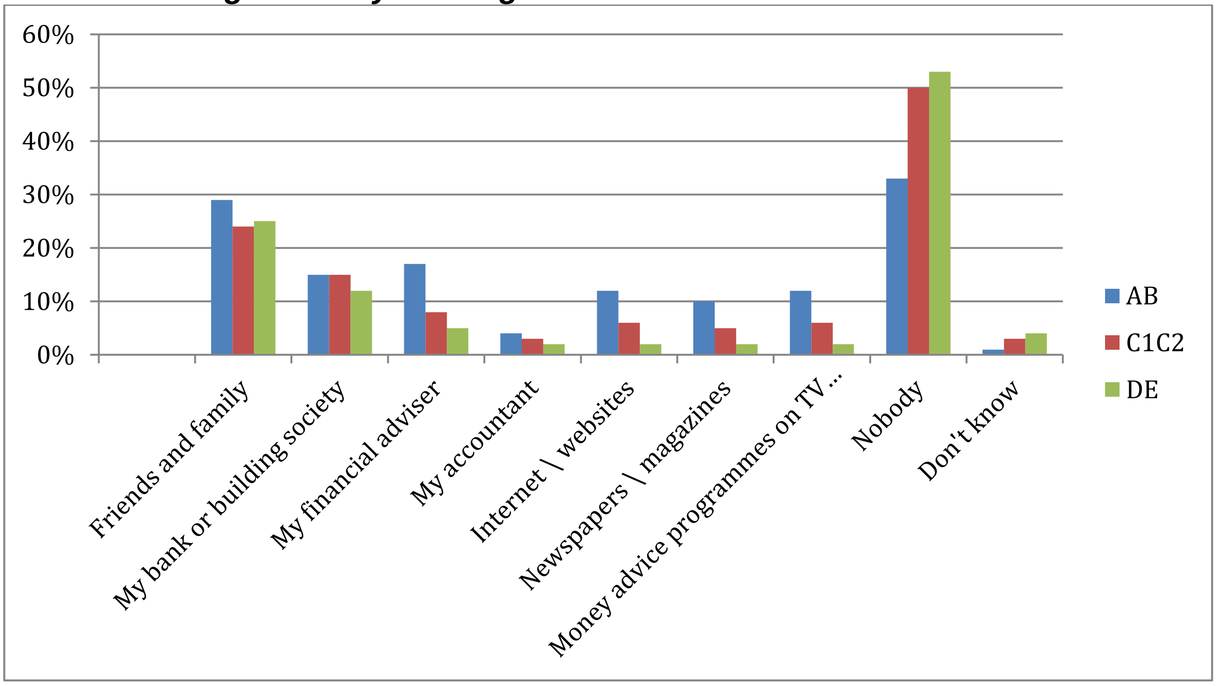
Chart 1: Who do you rely on for advice about money? Adults in GB aged 50+ by age



Source: Financial Services Commission Omnibus, polling by TNS for Age UK, February 2014.

As might be expected, Chart 2 shows that reliance on financial advisers, the internet and other sources of information is higher among the AB group, while they were less likely to cite 'nobody'.

Chart 2: Who do you rely on for advice about money?
Adults in GB aged 50+ by social grade



Source: Financial Services Commission Omnibus, polling by TNS for Age UK, February 2014.

4. ***Do you have any comments or evidence on the demand for advice from sources other than professional financial advisers?***

Age UK receives continuous feedback about financial issues of importance to older people through the advice activities of local Age UKs, calls to the national Information and Advice (I&A) line and hits on our web site. In addition we receive communications from the general public that highlight certain issues, and we run engagement events to focus on selected issues in detail.

We recently conducted a survey of local Age UKs' financial guidance/capability activities. From the network of around 165 Age UKs there were 88 responses and, of these, half were currently delivering what they regarded as a financial capability service. The most frequent topics covered by these services were scam awareness and remedies, budgeting and managing personal finances, and shopping around for cheaper consumer deals[iii].

Of the enquiries received from members of the public, the most frequent topics were: benefit checks, understanding financial statements, jargon and terminology, Powers of Attorney, scam awareness and remedies, switching service providers and planning ahead for care home fees.

Many practical day-to-day financial topics appear on the full list of enquiries including, for example, 'considering equity release', 'negotiating repayments', 'calculations around part time work', 'setting up direct debits', 'understanding creditor powers'.[iv]

Financial information and guidance via Age UK's national advice line

This pattern of concrete, practical enquiries related to day-to-day life and plans for the future is repeated in the data from Age UK's national advice line, and financial issues are one of the main areas of enquiry. I&A calls are divided into Level 1 and Level 2, with Level 2 providing more in-depth discussion and (non-regulated) advice.

In 2014-15, the most frequent topics at Level 1 were benefits, finding help at home and housing. At Level 2 the most frequent topics were benefits, residential care and non-residential care.[v]

In 2014-15, there were 271,741 I&A enquiries, of which 16,535 were advanced to Level 2. In addition, Age UK had 3.1 million unique visitors to the I&A pages on its website. In total, Age UK's I&A services reached 5.8 million people in 2014-15. Reflecting the needs of enquirers, the top 10 Information Guides produced by Age UK included many financial topics.

Top 10 Information Guides

Individual orders		**Bulk orders**	
More Money in Your Pocket	14,618	Staying Steady	157,270
Care at Home	9,942	Winter Wrapped Up	133,853
Pension Credit	9,003	More Money in Your Pocket	51,006
Adapting Your Home	6,473	Healthy Eating	46,943
Attendance Allowance	6,204	Caring for someone with Dementia	40,932
Powers of Attorney	3,951	Healthy Living	40,084
Advice for Carers	3,888	Bereavement	37,356
Wills and Estate Planning	2,837	Advice for Carers	36,961
Save Energy, Pay less	2,835	Powers of Attorney	36,361
Winter Wrapped Up	2,640	When someone dies	34,840

5. ***Do you have any comments or evidence on the financial needs for which consumers may seek advice?***

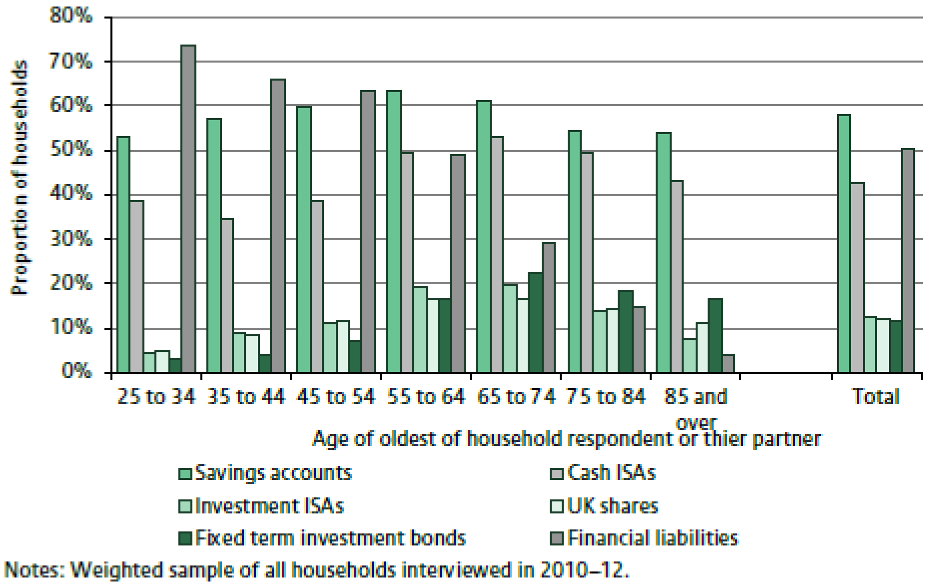
Until recent years, in terms of managing their financial wealth, older people's professional advice needs may have been relatively simple. Most people's wealth was held in defined benefit pensions or cash and most mortgages were paid off by retirement. All this is changing, with a growing need for ongoing 'wealth' management, tax advice, cash management advice, care fees planning and mortgage repayment advice.

These needs are not currently fully reflected in the box on page 10 of the consultation. It should include paying for long-term care and also transactional support with issues such as selling investments or repaying an interest-only mortgage. Both of these are at the most complex end of the spectrum.

The current picture

As the chart below shows, apart from their pension, in 2010-12 households with older people aged 55+ held most of their wealth in cash savings, but a minority still have financial liabilities into their 80s.

Chart 3: Financial assets and debt by age



Source: The Evolution of Wealth in Great Britain, 2006-08 to 2010-12, Institute for Fiscal Studies, 2015

The need for retirement planning will increase

According to Pensions Policy Institute research[vi], out of those people aged between 50 and State Pension Age in 2014 with defined contribution pension savings:

- Around 891,700 are likely to have more than £51,300 and should therefore be able to find advisers willing to take them on
- Around 3 million will have less than £6,300 and may be more likely to draw their savings in cash
- Around 1.78 million will have between £6,300 and £51,300, of whom PPI regards 694,000 as being at 'high risk' given their level of dependence on DC savings and lack of defined benefit pensions to fall back on.

We could therefore regard between 694,000 and 1.78 million people aged 50-64 as being in a potential retirement income advice gap. For example:

> *I have been trying to get some financial advice including three small pensions I have and what I can do with them. I have tried the pension advice site and it was not helpful. I've been told I need a financial/ pensions adviser but am worried and can't really afford much. I need impartial advice - all these 'link on this link on that' - I need someone to sit down and help me sort it out.* Evidence from Age UK advice line

Unless someone buys a lifetime annuity, or spends the whole amount immediately, ongoing advice will be needed throughout retirement. Although, out of the 39,901 income drawdown plans sold in 2014, 81 per cent were independently advised, while 10 per cent were sold with restricted advice and only 9 per cent were non-advised, this is likely to change. [vii] It is essential that all consumers using income drawdown have access to advice or guidance throughout later life.

This needs to include tax advice, given that how the income is drawn could have significant tax implications.

The need for better cash management

One side-effect of the ‘freedom and choice’ reforms in pensions is likely to be an increase in the amount of pension savings cashed in and held in cash. However, recent research suggests that the majority of older people’s surplus is held in low-interest current accounts, suggesting that many could benefit from support to maximise their income[ix].

The need for care fees planning

Financial planning for care is increasingly important because of the delay in the implementation of a cap on care costs until 2020, together with the reduction in the percentage of older people receiving state funding (9.2 per cent in 2013/14, down from 15.3 per cent in 2005/06x). The total number of so-called ‘self-funders’ is difficult to estimate but there are approximately 173,900 people in residential or nursing care, and an unknown number paying for their own domiciliary care[xi]. Each year, 35,000 people who enter care draw on their housing wealth to do so, which is likely to require specialist financial and legal advice[xii].

Yet, in recent research[xiii], only 9 per cent of over-45s said they would use an IFA. While people are likely to use a variety of sources, the most popular port of call is likely to be the local authority, social worker or council with 49 per cent of people staying they would speak to them. This is followed by the Citizens Advice Bureau (42 per cent), GP/Doctor (28 per cent), the internet (24 per cent) and their family (24 per cent). Only 2 per cent would consult their bank. However, 51 per cent said they would find a referral to an IFA useful.

The supply of specialist advice for older people is also limited. For example, SOLLA (the Society of Later Life Advisers) was expecting just 1,000 members in 2015/16.[xiv]

Advice on repaying an interest-only mortgage

People approaching or in retirement with an interest-only mortgage have particular needs for advice. According to the FCA[xv], over the next 30 years:

- 2.6 million interest only mortgages will be due for repayment and while nine out of ten (90 per cent, 2.34 million people) have a strategy to repay their mortgage, 10 per cent do not – equivalent to 260,000 people.
- Some borrowers are underestimating the problem as around a third (37 per cent) believe they may not have enough money to pay off the loan, yet estimates produced for the FCA suggest that the figure is closer to half (48 per cent).

- Borrowers who are able to give a figure believe their shortfall will be, on average £22,100. However estimates produced for the FCA are that around half these shortfalls are expected to be over £50,000.

6. ***Is the FCA Consumer Spotlight segmentation model useful for exploring consumers' advice needs?***

7. ***Do you have any observations on the segments and whether any should be the subject of particular focus in the Review?***

   The segmentation is not granular enough to be useful in relation to people approaching or in later life. For this reason, it is difficult to use it to prioritise specific areas, although we think given the major implications of 'freedom and choice' in pensions, retired groups will clearly be important. We recommend that it is supplemented by other segmentation models, for example those recently developed by the Centre for Ageing Better[xvi], the categories we give in our response to Question 5 above and the categories given in Citizens Advice recent report on advice gaps[xvii].

8. ***Do you have any comments or evidence on the impact that consumer wealth and income has on demand for advice?***

   Our research (see Question 2) suggests that people in higher socio-economic groups are more likely to seek advice, presumably because of greater wealth and income. However, analysis of the Bank of England NMG Consulting survey by age shows that older people have much lower incomes and higher wealth relative to younger people, as one would expect. In the 2014 survey, 69 per cent had incomes below £14,000. Therefore, they are more likely to need to draw from their capital to pay advice fees, and advice fees may seem particularly high when framed in the context of lower incomes.

9. ***Do you have any comments or evidence on why consumers do not seek advice?***

   We agree that all the factors listed are likely to be barriers to seeking advice. In addition, we note that:

- Older people may be more likely to be affected by lack of trust arising from mis-selling problems in the past

  > *'I won't trust a financial adviser – we went to the bank once and they dearly wanted to invest our money, but we decided not to and if we had listened to the adviser we would have lost a fortune'* Male aged 75+
  >
  > *'I think the biggest problem is that we don't trust others to look after our money because of everything that has happened in the past. I would love it if there was a group of honest and trustworthy people to look after my funds – I don't want to make a fortune, but just want a steady improvement'* Male aged 75+[xviii]

- Lack of fixed-price fee options is likely to deter people on a budget.
- Professional advice is not very visible. Most IFAs do not have a strong brand; major banks and providers do, but they are increasingly not accessible on the high street

as they close branches and local offices. ‘Find an adviser’ websites such as that offered by the Money Advice Service are very important, but people may need encouragement and assistance to engage, and other alternatives are needed for people who are digitally excluded.

- Cultural barriers. For some people, there is likely to be a perception that financial advice is ‘not for people like me’. Advice firms having a diverse workforce that truly reflects the make-up of contemporary society is particularly important if this is to change.

Where are the advice gaps?

10. ***Do you have any information about the supply of financial advice that we should take into account in our review?***

11. ***Do you have any comments or evidence about the recent shift away from sales based on professional advice, and the reasons for this shift?***

12. ***Do you have any comments or evidence about the role of new and emerging technology in delivering advice?***

13. ***Do you have any comments on how we look at the economics of supplying advice?***

14. ***Do you have any comments on the different ways that firms do or could cover the cost of giving advice (through revenue generation or other means)? Do you have any evidence on the nature and levels of costs and revenues associated with different advice models?***

15. ***Which consumer segments are economic to serve given the cost of supplying advice?***

16. ***Do you have any comments on the barriers faced by firms providing advice?***

We are not in a position to answer these questions. However, we supported the move away from commission-based selling because it was clear that it was incentivising poor practice, which in turn reduced trust and consumer engagement. Nor did it reflect the reality that many people may need support with managing their money without necessarily needing to buy a product. We question though whether the current model of highly individualised, expensive, advice is appropriate for the vast majority of the population, and we would welcome greater innovation in technological infrastructure to support cheaper models of delivery.

17. ***What do you understand to be an advice gap?***

18. ***To what extent does a lack of demand for advice reflect an advice gap?***

We agree with the definition used by the Review. We particularly welcome the focus on the advice gap, rather than the savings gap. The role of advice is not necessarily to promote saving, although in many cases that will be the effect, and an excessive focus on accumulating savings can be a distraction from the need – particularly in retirement – to manage existing savings better. Indeed there is evidence that some older people underspend[xix], because of the uncertainty of longevity and care needs, but possibly also because of cultural conditioning to save:

'Most of us were brought up to save for a rainy day – now it's starting to drizzle – most of us have been careful and saved and it's difficult to break the habit.'[xx]

19. ***Where do you consider there to be advice gaps?***

20. ***Do you have any evidence to support the existence of these gaps?***

In relation to people approaching and in retirement, we observe the following advice gaps:

- Planning for long-term care costs, as set out in our response to Question 5 – it is disappointing that this is not covered in the framework on page 20.
- Drawing a pension – there are clear affordability gaps here, as set out in our response to Question 5.
- Interaction of pensions with debt and benefits, which professional financial advisers are unlikely to deal with. There are particular problems with debt, as a debt advice agency is unlikely to have FCA authorisation to advise on sale of a pension as well, as shown in these examples from the Age UK advice line. Some clarification/confirmation from FCA about whether there is a way that CONC-regulated debt advisers can do more for pensions clients would help.

  I have a small pension from work and have been offered a lump sum instead of keeping the pension. I was made bankrupt 5 years ago and I need to know if any lump sum would be confiscated

  I am an unemployed 60 year old man with some health problems. With this in mind I was thinking of early retirement. I have a final salary pension scheme and have received some online figures for early retirement which seem attractive and that I may like to pursue. However, my pension provider insists I see a Financial Adviser before taking this any further. I now feel I am in a Catch 22 situation as I just cannot afford the fees of a Financial Adviser as I am on Jobseekers Allowance which does not leave much at the end of the week! What would you advise?

- Ongoing management of retirement savings – we pick this out as a separate category because unless someone buys a 'packaged' product such as an annuity they may need an ongoing relationship with a financial adviser, which is likely to be expensive.
- Selling a secondary annuity – if this becomes possible, as currently proposed for 2017, we think anybody considering it will need holistic financial advice, including on benefits and debt.
- How to repay an unpaid interest-only mortgage – financial advisers are highly unlikely to want to advise on what can be a messy situation, crossing several

different forms of FCA permission. For example, some people might benefit from converting their mortgage into a lifetime mortgage, but a standard mortgage broker is unlikely to have permission to advise on lifetime mortgages. People may also need housing advice – for example to consider alternative housing options.

- Advice on dealing with legacy issues. Many older people are faced with managing a portfolio of different products from companies that how now merged and, even if they had previously used an adviser, they are very likely to have been 'orphaned' over the years. Helping people to sort out what they already have is highly time-consuming and unlikely to be attractive to a professional adviser unless the value is substantial.
- Support with day to day money management, particularly for people in later old age.

In addition, there are a number of 'systems' issues that create advice gaps for older people. The main one is the likelihood of digital exclusion, which makes it very difficult to use comparison websites or online adviser directories.

21. ***Which advice gaps are most important for the Review to address?***

22. ***Do you agree we should focus our initial work on advice in relation to investing, saving into a pension and taking an income in retirement?***

Yes, but we would also like to see a additional focus on planning for care costs. In addition, there are some very specific areas of difficulty beyond and within these categories that FCA should consider, notably advice on repaying an interest-only mortgage, and the interaction of pensions and debt.

What options are there to close the advice gap?

The regulation of advice

23. ***Do you agree we should focus our initial work on consumers with some money but without significant wealth (those with less than £100,000 investible assets or incomes under £50,000)?***

Yes, in principle, but in practice a monetary limit may be a rather crude metric. For example, only 7 per cent of people aged 65+ have an income above £50,000[xxi]; conversely, older people in retirement may have more than £100,000 in investible assets but be unable to get advice for other reasons (for example because it involves dealing with complex legacy issues).

24. ***Are there aspects of the current regulatory framework that could be simplified so that it is better understood and achieves its objectives in a more proportionate manner?***

We recommend that FCA considers how a standardised fact-find could be introduced, supported by non-profit guidance.

We also suggest that FCA looks at whether there is any way to incentivise advisers to work across permissions, for example through referrals to other specialists.

25. ***Are there aspects of EU legislation and its implementation in the UK that could potentially be revised to enable the UK advice market to work better?***

We are not in a position to answer these questions. However, we note that the system of separate permissions for different activities can create barriers to holistic advice. We understand and support the need for special permissions for some activities, for example equity release, but suggest exploring whether the categories could be broadened, e.g. an overall 'later life' permission.

We would also support moves to facilitate the provision of non-profit advice for areas where professional advisers are not prepared to assist – for example, in provision of advice around pension transfers for low-value clients, or allowing CONC-regulated debt advisers to do more for pensions clients.

Previous initiatives to improve consumer engagement

26. ***What can be learned from previous initiatives to improve consumer engagement with financial services?***

The simple products initiatives referred to in the consultation were valuable not so much in terms of consumer engagement, as in their effect on the market. For example, the charge cap on stakeholder pensions had a significant effect in signalling that higher charges were no longer acceptable, and although advisers 'struck' at selling stakeholder pensions it is noticeable that they are now prepared to sell pensions with much lower charges. In this respect, the CAT standard and stakeholder initiatives had more in common with the 'default' approach of auto-enrolment than with engagement initiatives.

27. ***Are there any approaches to the regulation of advice in other jurisdictions from which we could learn?***

The Australian and Dutch examples cited seem to be following the UK model, suggesting support for bans on commissions. The fiduciary model in the US also replicates the UK model of requiring advisers to act in the best interests of their clients. However, we would be interested to learn from the US experience with technological innovation, and from the Financial System Inquiry[xxii] in Australia which has recently recommended greater use of 'default' options to reduce the need for expensive advice.

28. ***What steps can be taken to address behavioural biases that limit consumer engagement without face-to-face advice?***

We would strongly support moves to improve engagement through a 'pensions dashboard' or other such tool. Other steps forward would be radical simplification of some of the language around finance, as NEST has developed for decumulation. And, as stated throughout this response, we believe that default products have a role in some circumstances, particularly at retirement.

Finally, we note that in the past employers have played a valuable role through 'Save As You Earn' accounts. One fruitful step might be to consider how employers might be encouraged to offer such accounts, without necessarily linking them to share purchase and without compromising participation in workplace pensions. Many major employers also provide access to financial advice (usually in relation to pensions) and the Government should consider how other employers could be incentivised to do so.

The Financial Capability Strategy also has an important role to play in supporting consumers to feel confident in financial markets.

Limiting certain liabilities

29. ***To what extent might the different types of safe harbour described above help address the advice gap through the increased incentive to supply advice***

30. ***Which areas of the regulatory regime would benefit most from a safe harbour, and what liabilities should a safe harbour address?***

31. ***What steps could be taken to ensure that a safe harbour includes an appropriate level of consumer protection?***

We would support more detailed guidance by the FCA on what is good practice, and welcome initiatives such as the FCA innovation hub. In addition, if a standard 'factfind' is developed, some form of guidance may be needed on the situations in which advisers can rely on it. However, by definition a 'safe harbour' is likely to apply only in relation to simpler products, and if products are simple we suggest that non-advised purchases are more likely.

We are extremely concerned by suggestions that advisers should not be liable for the advice they give, as there is such asymmetry of information in the financial services marketplace. Quite apart from the issue of principle, consumers would need to understand when liability is limited, which would involve time consuming and burdensome disclosures that could further reduce desire to engage with the industry. It is also likely to stifle innovation and wrap the industry in red tape, as firms seek to squeeze their business into a regulator-approved model. In the past this has led to problems, for example some firms have misused the 'execution-only' classification in an attempt to avoid liability[xxiii].

The longstop review

32. ***Do you have evidence that absence of a longstop is leading to an advice gap?***

33. ***Do you have evidence that the absence of a longstop has led to a competition problem in the advice market e.g. is this leading to barriers to entry and exit for advisory firms?***

34. ***Do you have any comments about the benefits to consumers of the availability of redress for long-term advice?***

35. ***Do you have any comments or suggestions for an alternative approach in order to achieve an appropriate level of protection for consumers?***

We do not support a longstop time limit on liability. While we have no evidence that it is leading to an advice gap, there is clear evidence that it would lead to consumer detriment – the FCA noted in 2008[xxiv] that 2,000 cases a year would be time-barred. We believe that, at a time when consumer reluctance to engage with financial services is a matter of concern, introducing a longstop would be severely damaging to consumer confidence. We note that the possibility of variable longstops is raised in this paper, but consider that these would be difficult to implement and would distort the marketplace – for example, a 25-year longstop for mortgages would reduce the already slim incentive for lenders to extend an unpaid interest-only mortgage beyond the original term. We suggest that Professional Indemnity insurance should already take account of the likely end-date of the liability.

We can see the appeal of a no-fault compensation fund, but this would mean that all firms bear the cost of poor practice by others, and so would be unlikely to reduce regulatory costs overall. It might also reduce the incentive to take care when advising on long-term issues.

Automated advice

36. ***Do you have any comments on the extent to which firms are able to provide consistent automated advice at low cost? Are you aware of any examples of this, either in the UK or other jurisdictions?***

37. ***What steps could we take to address any barriers to digital innovation and aid the development of automated advice models?***

38. ***What do you consider to be the main consumer considerations relating to automated advice?***

Age UK is supportive of the development of automated advice options, provided that:

- The automated solution meets acceptable standards, with a clear audit trail for the advice and redress available in case of errors.
- There is backup in the form of impartial telephone or face-to-face advice from an appropriately trained adviser who can ‘coach’ the individual through the system
- Advice and selling must be separate. If the advice does lead to a need to buy a product, there should be a ‘Chinese wall’ between the advice process and the selling of the provider’s own products – a good range of providers’ products must be offered, or a warm referral to an independent adviser on an approved list, such as the MAS directory.
- It is completely clear at outset whether the system is offering regulated advice or just information. Where it is just information, there should be some form of benchmarking or kitemarking to guard against poor standards or bias. Where such a system is clearly misleading, the FCA should be able to take action against the firm.

- Charges are transparent at the outset, and charges to download material and data are fair and reasonable and made clear at all points throughout the process.

However, an automated system does not in itself lead to greater engagement, nor will it meet the needs of the many older people who are not themselves online. We think it is important that telephone or face to face guidance services are in place to support such people and take them through an approved automated system.

Considering the options to bridge the gaps

39. ***What are the main options to address the advice gaps you have identified?***

We recommend that:

- Where possible, the need for advice should be minimised, for example by developing 'default' options on drawing a pension
- The FCA's innovation hub supports the industry to develop fixed-price models of advice, making full use of automated technology.
- The FCA considers whether the fact finding process is a disincentive to take advice, and whether the process could be stream-lined through a standard fact find.
- Employers potentially have an important role to play and should be incentivised and encouraged to provide access to advice (the 'benefits in kind' tax exemption for pensions advice is very modest).
- These steps are unlikely to make professional advice fully accessible to the whole market. Professional advice will need to work together with free, impartial public financial guidance, supported by moves to improve financial capability in the general population. We recommend that a 'white labelled' automated advice system is developed for use by appropriately trained money guidance 'coaches'. Pro bono advice schemes are also available and could potentially be expanded.
- Triggers for action are also needed. We would like to see the concept of 'health checks' at different ages extended to financial services, and in particular we would like to see a mid-life career and a mid-retirement review.

40. ***What steps should we take to ensure that competition in the advice markets and related financial services markets is not distorted and works to deliver good consumer outcomes as a result of any proposed changes?***

We would not support increasing access to advice at the cost of anti-competitive practice. As far as possible, advice should be separated from selling. While product providers have an important role to play in providing information, if a consumer decides as part of the information process that they need to buy a product, they should be referred to an independent transaction service offering a choice of providers' products.

41. ***What steps should we take to ensure that the quality and standard of advice is appropriate as a result of any proposed changes?***

This will depend on the changes proposed. We urge the Government to allow adequate time for consultation and consumer testing of any changes proposed as a result of FAMR.

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[i] *Wealth and Assets survey 2010-12,* Table 6.10, ONS.
[ii] http://www.ons.gov.uk/ons/rel/rdit2/internet-users/2015/stb-ia-2015.html
[iii]Interim feedback from local partners re Financial Capability Survey and next steps (internal Age UK document, October 2015), p 3.
[iv] Interim feedback from local partners re Financial Capability Survey and next steps (internal Age UK document, October 2015), p 3.
[v] Age UK, *Service Delivery End of Year Report 2014/15*
[vi] *How complex are the decisions that pension savers need to make at retirement? ,* Pensions Policy Institute, 2014
[vii] *The Future Book; unravelling workplace pensions,* Pensions Policy Institute, 2015.
[ix] *Understanding retirement journeys: reality vs. expectations,* International Longevity Centre UK, 2015
[x] *The Health and Care of Older People,* Age UK, 2015
[xi] *Laing and Buisson Care of Older People Market Report 2014*
[xii] Care Bill 2013 Impact assessment
[xiii] *Care Report 2015,* Partnership, 2015
[xiv] *SOLLA on track to make later life fastest growing market, http://societyoflaterlifeadvisers.co.uk/media/*
[xv] *Interest-only mortgages review,* Financial Conduct Authority, 2013
[xvi] *Later life in 2015: an analysis of the views and experiences of people aged 50 and over,* Centre for Ageing Better, 2015
[xvii] *The Four Advice Gaps,* Citizens Advice, October 2015
[xviii] *Making the Money Last,* Age Concern, 2007
[xix] *Understanding retirement journeys: reality vs. expectations,* International Longevity Centre UK, 2015
[xx] *Beyond Financial Inclusion, Annex 2,* Age Concern, 2008
[xxi] *NMG Consulting Survey for Bank of England, 2014*
[xxii] Final report of the Financial System Inquiry, available at http://fsi.gov.au/publications/final-report/
[xxiii] See for example http://www.financial-ombudsman.org.uk/publications/technical_notes/execution-only.htm
[xxiv] *Retail Distribution Review Feedback Statement 08/06,* Financial Conduct Authority, 2008

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Financial Advice Market Review
HM Treasury & Financial Conduct Authority

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1 EXECUTIVE SUMMARY

As a business and technology consultancy specialising solely in financial services, Altus has extensive experience working with clients in the UK retail financial services market, including investment platform providers, life companies and retail banks. With practical involvement in both system and business issues across the investment sector and a keen interest in technology and innovation we welcome this opportunity to respond to the Financial Conduct Authority and HM Treasury consultation on the financial advice market.

We are also pleased to see the consultation address advice in the round, as opposed to a narrower ‘regulated advice’ definition which many in the industry typically limit debate to. When consumers seek advice, they do not make the same assumptions around regulated boundaries and liability as industry insiders and we should all take this into account to ensure discussion is more relevant to the target market.

The Retail Distribution Review has made major inroads into removing sales bias from the advice process but there has been one notable unintended consequence; by eliminating cross-subsidy and exposing the true cost of advice, RDR has contributed to an advice gap among less wealthy segments of the population. This gap has been further widened recently by liberalisation of the pension rules which has created a growing need for affordable advice at retirement.

Just as important as any advice gap is the UK’s savings ratio which continues to fall and stands at less than half the level of comparable European economies. The ease with which consumers can borrow money at alarming interest rates is fuelling a debt culture and one of the objectives of this consultation should be to make it as easy to save as it is to borrow.

We believe that two key regulatory developments would significantly reduce the advice and savings gaps. First the FCA should complete the job it started with RDR and ban all payments from providers to distributors – both advised and non-advised. Then, having removed product incentives from the advice process, the FCA should look to manage outcomes rather than procedures. The Conduct of Business Sourcebook (COBS) should be drastically simplified and the FCA focus directed to ensuring the suitability of investments.

One particularly significant contribution which the regulator could make to reduce the cost of advice would be to support firms developing automated advice solutions by reviewing and approving their algorithms. To reduce the risks of this approach, we suggest that the FCA should introduce a voluntary product risk rating system (similar to NCAP for car manufacturers) and use this to limit the scope of automated advice services.

It is important to acknowledge that some risk would still remain in this scenario. It is possible that a consumer could be attracted to a particular vertically integrated solution when they might have fared slightly better via a different channel but, in our view, the balance would be much more appropriate in a commission-free world. In summary we believe that this proposed model would lead to greater aggregate saving, increased professionalism of advice and a more competitive retail investment industry.

2 ANSWERS TO QUESTIONS

Q1: Do people with protected characteristics under the Equalities Act 2010, or any consumers in vulnerable circumstances, have particular needs for financial advice or difficulty finding and obtaining that advice?

Drawing on the FCA's own collected research, Altus has determined several types of vulnerable consumers including those with protected characteristics, who may find it difficult to access advice in the post-RDR environment. These include:

- The half of UK adults with low numeracy skills, many of whom may not even be aware of their need for advice.
- In excess of 7m adults who have never used the internet – a source of most of the latest innovations in lower-cost advice offerings. These include in excess of 3m over-75s and 3.7m disabled people.
- 800,000+ people with dementia, who may be increasingly in need of specialist advice – for example where they are no longer capable of making decisions on their drawdown plans, or for equity release or inheritance planning.
- The 1 in 6 adults in unpaid caring roles, many of whom may have to make complex decisions as a deputy under powers of attorney but without the resources to pay an adviser.

While these vulnerable sectors do still have access to the free services of Citizens Advice, MAS and TPAS, many of their needs are non-standard and are not fully catered for by the public and charity sectors.

Q2: Do you have any thoughts on how different forms of financial advice could be categorised and described?

Altus believes that consumers don't understand or choose to differentiate based on the subtle wording differences and reserved phrases which have been used by the industry in the past. It is also unrealistic to expect consumers to spend time learning about financial services businesses and products or trying to understand the regulatory framework. The definition of advice and the framework within which it sits should be crafted to support consumers regardless of how engaged they are.

Many of the advice descriptions used in the past have been put in place to give providers clarity on whether they carry liability for their interaction with the client, and the extent of this liability. Instead of using the type of advice to infer a liability which may ultimately be challenged, providers could be clear and transparent about whether they are assuming any liability for the transaction they are carrying out with the consumer.

For example, if a client is going through a process where they are being provided with advice, when the client is paying for that advice, part of the disclosure should cover the level of liability the provider accepts for the delivery of that advice. The provider could even go one step further and allow the client to select a level of liability, which could then be more closely correlated to the respective PI costs for the provider.

Q3: What comments do you have on consumer demand for professional financial advice?

When many consumers are seeking advice from a professional source, they are looking for assurance. This might be that they want someone to help them understand their options and make recommendations based on their personal circumstances, or they might seek validation of conclusions they have already reached.

Often, the process for obtaining advice is time consuming and is not valued by consumers in the same way that it is by advisers. As a result of this, consumers who need advice may not seek it. It is imperative that the industry positions access to advice in a way that customers feel is useful and accessible.

If you look to other industries, successful products and propositions are designed and presented as ways of solving customer problems or fulfilling consumer needs. Whether regulated advice is doing this or not is almost irrelevant as the advice community has often failed to demonstrate this to consumers.

There is also a shift in perspectives relating to savings within our society. Deferred gratification is a concept which is becoming less and less part of our day to day lives which is encouraging a spending culture fuelled, in some part, by the presentation of seemingly logical economic factors (e.g. interest free credit offers). Saving, investing and insurance are at the opposite end of the spectrum and the government and the financial services industry needs to change this debt driven culture to have any real impact.

Q4: Do you have any comments or evidence on the demand for advice from sources other than professional financial advisers?

It is unlikely that anyone seeks professional financial advice without first having sought advice from a variety of other sources (self-guided research, family members, friends etc.). Once this initial advice has been digested, consumers then make a decision on whether they believe they can execute their own transactions or whether they need further support.

If further support is needed, consumers will look to financial services professionals, although often will not distinguish between the services of an independent financial adviser, and those which are tied to a bank or a life company.

Recent Altus research[1] identified that:

- 71% of people use the internet to help manage and invest their money (primarily for savings / Cash ISAs, but also stock & shares ISAs, direct equities, and to a lesser extent, pension / retirement planning and protection)
- 1 in 5 use their bank to help invest their money (excludes current account)
- 1 in 4 reported they used a financial adviser (excluding a bank adviser)
- 1 in 4 advised they use family members / friends to provide advice
- Just over 1 in 8 use their Employer / Workplace adviser

Q5: Do you have any comments or evidence on the financial needs for which consumers may seek advice?

Altus research identified that:

- 71% of people use the internet to help manage and invest their money (primarily for savings / Cash ISAs, but also stock & shares ISAs, direct equities, and to a lesser extent, pension / retirement planning and protection)

[1] Research carried out October/November 2015. Research based on 1000 adults aged 25+, general investors, ABC1C2, split equally male / female)

- 1 in 4 reported they used a financial adviser (excluding a bank adviser)
    - Of those, 1 in 4 aged 25-34 use an adviser for life cover / CI, while a similar percentage in the 55+ age group use an adviser for estate planning, and almost half for optimising income in retirement
- Twice as many 25-34s and 55+ use their bank for ISAs than those aged 35-44

Aside from this, most consumers seek advice as a direct result of a major life event. Changes to income, inheritance and changes to the number of dependents are key catalysts, alongside marriage and divorce. Very few consumers are likely to seek out advice in the absence of a catalyst.

Before the RDR, many consumers could have been viewed as "advised clients" because all of their financial needs were catered for as part of an advisory relationship. Post RDR, very few clients will fall into this category. Instead, certain products/transactions will be advised and others will be self-directed. Catering for this dip-in/dip-out advice will be a key challenge for providers operating in the UK market over the next few years.

Q6: Is the FCA Consumer Spotlight segmentation model useful for exploring consumers' advice needs?

The FCA consumer spotlight provides a good start at dividing the populous into economic and demographic groupings. It is also reflective of the kind of segmentation that most financial services firms have traditionally used in their marketing and proposition departments.

On a wider note, Altus would challenge using broad demographic segmentation as the only tool in understanding the advice needs of the UK population. Instead, looking at the problems the industry is trying to solve (*jobs to be done*) might provide a better way of developing core product/offerings to address issues such as the advice gap.

The world is also shifting towards the concept of mass personalisation and consumers are expecting far more from their providers in this respect. The provision of advice by financial services firms is a perfect example of an area where individual needs become paramount and communication on an individual level is essential in order to increase engagement levels.

Q7: Do you have any observations on the segments and whether any should be the subject of particular focus in the Review?

Those segments which contain clients least well served by the existing advice framework in the UK should be the focus of the review. Specifically, clients left in the advice gap and clients who, even pre RDR, would not have had the means for advice.

The review will need to strike a balance between those who are actively seeking assistance and those who do not wish to engage with savings/are unable to. This needs to be done through a combination of measures from providers, existing services (MAS, TPAS and Citizens Advice) and also through the use of mandatory contributions (auto-enrolment moving towards compulsion) to provide longer term economic stability.

Q8: Do you have any comments or evidence on the impact that consumer wealth and income has on demand for advice?

Recent Altus research identified that:

- Lower income people have a greater propensity to seek advice from their bank for simple savings /cash ISAs
- Twice as many 'High Managerial / High Admin / Professional' people will seek advice from a non-bank adviser than those on lower incomes (supervisory / clerical / skilled manual worker) – 35% vs 18%.
- Those people in the Intermediate managerial / admin roles are more likely to seek advice from a family member / friend than other wealth segments
- Those on lower incomes are less likely to use an employer / workplace adviser service
- For those who would use an employer / workplace adviser service:
  - 1 in 3 on higher incomes would use it for retirement planning
  - Just over half on middle incomes would use it for retirement planning
  - 58% on lower incomes would use it for retirement planning
- Higher earners are more comfortable with the idea of using an automated advice solution than lower earners
- For those who would use an automated advice service, more higher earners believe it is very important for the service to provide access to a human after they've invested their money

Q9: Do you have any comments or evidence on why consumers do not seek advice?

The reasons cited in the FAMR Call for Input offer a good overview of the issues facing the industry in terms of why people do not seek advice. This results in many people not wanting to go through the process of obtaining advice (which is often time consuming and can be uncomfortable), regardless of the fact that they may recognise they need advice. Combining this with the fact that compelling events are few and far between and that a lot of clients view the advice process as being expensive results in a large percentage of the population not taking advice.

Altus believes that the industry needs to see a move away from expecting consumers to seek advice, and instead, move towards a point where they are actively given advice at multiple points in their lives, from multiple sources. Customers value assurance and support in their decision making and a supportive framework would mean that more clients will ultimately be in a better position and more capable of supporting themselves and their financial needs.

Q10: Do you have any information about the supply of financial advice that we should take into account in our review?

There is currently too much emphasis on delivering an investment recommendation and not enough based on a holistic view of a customer's needs. This can lead to the best interests of the customer being overlooked by an assumption an investment product is what is required. This is especially true in restricted advice scenarios where product providers are giving advice on restricted/in-house product ranges.

The problem is exacerbated by a stovepiped FCA handbook which is often based on divisions driven by the industry view of companies and products, and not the logical view of what customers need to achieve good financial outcomes.

Q11: Do you have any comments or evidence about the recent shift away from sales based on professional advice, and the reasons for this shift?

As a direct result of more transparent fee structures, many consumers are moving away from taking professional advice because they are either unwilling or unable to pay for it. The removal of commission also means it is now uneconomic for advisers operating a traditional advice model to service clients with simple needs or a lower level of assets.

The key challenge for those offering advice to retail investors is one of demonstrating the value of the advice. Often, the real value of advice won't be known for a long time period and this makes it even harder to demonstrate its value to consumers. The result is that fewer people are drawn towards taking advice.

Q12: Do you have any comments or evidence about the role of new and emerging technology in delivering advice?

Whilst there are numerous examples of technology developments in the retail investment process (many of them labelled "robo advice" by the press) most of these developments steer clear of anything the FCA would define as advice. In large part this is a result of ongoing concerns about future liability for systemic misselling where algorithms are subsequently discovered to be faulty. There are some notable exceptions (CORA from LV= and Money on Toast) where firms have explicitly accepted liability for providing a personal recommendation but the great majority of technology initiatives in this area operate on an execution-only basis.

Technology could actually do much more for consumers if the FCA was prepared to work with suppliers to review and approve their underlying advice algorithms rather than audit the results after the event. If this seems too radical, then an alternative approach could be for the FCA to introduce a voluntary product risk rating similar to the NCAP safety ratings adopted by car manufacturers. This would enable providers to match client risk attitudes to appropriate products in a more consistent manner than is currently the case.

Beyond the current crop of algorithmic advice engines, Altus believes that the next wave of technology development will be based on artificial intelligence and this will pose a whole new challenge for regulators. AI engines will have a higher cognitive power, better reasoning and access to far more data than human beings which will make it extremely difficult to check their recommendations against some "correct" answers. This challenge will extend far beyond financial services but is worth highlighting here.

Q13: Do you have any comments on how we look at the economics of supplying advice?

One of the principle costs of the advice process is for the fact find. It is enormously time intensive for both client and adviser. Technology is providing tangible and cost effective ways of automating this process by gathering data from a range of disparate data sources. This is also putting the client in control of their own data. This approach should be embraced and encouraged by the industry and also has strong parallels with other initiatives which are under consultation (digital passports, pensions dashboard etc.).

Alongside data management, there are a number of automatable aspects to the advice process which would previously have been handled manually (investment decisions/rebalancing, trading, settlement and custody, attitude to risk and capacity for loss). The automation of these elements should be allowing advisers to focus on the benefit they can provide to their clients (e.g. service levels, relationship building etc.)

The more complicated needs of high net worth individuals will likely benefit the least from automation in the short to medium term. This is because the cost to automate will be prohibitively high as a result of the complexity of the process and the number of clients who will make use of the service. This will change over time becoming more and more achievable as technological advancements are proven in the market place.

The traditional concepts of ongoing and initial advice are becoming less useful as aspects of the process are automated. We should be moving towards a point where all advice is ‘ongoing’ and client’s needs are frequently checked back with them, compared to those of their peer groups, and modified as life events change their situation.

Another key constraint for providers regarding advice is that of PI cover and liability for advice given. The lack of a long stop and the regular changes in regulation have left many providers nervous about delivering advice, and carrying the liability for it, and have also led to increased PI costs. By way of mitigating this, an alternative advice structure might allow providers to offer advice with and without liability (or with varying levels of liability) to provide services which are appropriate for clients in a way which is more economically viable for providers.

The review should also investigate the role of the Money Advice Service and Pensions Wise as part of its remit. These services could be used to help serve some of the needs of the advice gap, and might also help providers provide a more economical solution to their clients as part of collaborative working and well defined responsibilities.

Q14: Do you have any comments on the different ways that firms do or could cover the cost of giving advice (through revenue generation or other means)? Do you have any evidence on the nature and levels of costs and revenues associated with different advice models?

Many of the issues which have been raised in the financial services industry have been as a result of passing money up and down the value chain in a way which is not understood by clients. It can lead to consumer mistrust in the long term and questions around the purity of motives of providers. Therefore, clarity of what people are paying for and what they aren't is essential.

That said, consumers do generally understand that services provided to them for free have an inherent bias or a restricted range of products at the end of it. This is less likely to result in consumer complaints than a situation where services are presented as free and independent, but really aren't.

The suggestions made elsewhere in the Altus response regarding driving advice costs based on the level of liability carried by the provider, and the level of service provided to the client are also relevant to this question.

Q15: Which consumer segments are economic to serve given the cost of supplying advice?

It is short-sighted of advisers to only serve clients with large portfolios for two reasons.

1. The measure of wealth used by advisers is too 'point in time' and usually doesn't take into account the potential future growth of a client (i.e. Today's small customer or firm could be tomorrow's Bill Gates or Microsoft).

2. Through good use of technology, the cost to serve clients can be massively reduced which ultimately means that lower value clients can become more cost effective.

In addition, it is worth bearing in mind that the advice process and its constituent capabilities remains largely constant between different client segments. Core needs persist across all customers (the need for a tax efficient product/wrapper selection, the need to have a risk based investment etc.) and firms should be able to develop solutions which work for multiple client segments by focussing on these needs.

Q16: Do you have any comments on the barriers faced by firms providing advice?

The key barriers faced by firms are the economic viability of advice and the desire of some segments to seek advice. In order for advisers to work in light of these issues, they need to find a way of demonstrating value to their clients more than ever before (especially because we are dealing with intangible products). This could be done through operating on a revenue model based on joint success (i.e. fees based on a defined percentage of the demonstrated gain or saving delivered for a client) or might equally be done by demonstrating costs/losses avoided as a result of their actions.

Q17: What do you understand to be an advice gap?

There are two defining characteristics of clients in advice gap:

1. Anyone where the cost for delivery of advice outweighs the financial benefit of receiving the advice

2. People who do not realise they need advice

Q18: To what extent does a lack of demand for advice reflect an advice gap?

Demand for professional advice is not the same as a demand for advice. For many people, professional advice as we know it today is probably not required for most of their working life. Auto-enrolment will provide a base retirement provision for a large portion of the population. Once those people have also taken out a mortgage and paid this down by retirement there will be little need for additional planning for many clients.

The elements where clients will continue to need the most support include:

- Deciding how to take their income at retirement.
- Later life decisions including care expenses and equity release.
- Auto-enrolment scheme setup (for small and micro-employers).
- Tax and inheritance planning.

The last of these four is traditional territory for wealthier customers who already happily pay for advice. We believe that retirement planning will have the largest demand. Experience would lead us to believe that the proliferation of new products in the wake of pension freedoms will only make these decisions harder. Radical simplification of pension rules could reduce the need for paid-for advice, however previous attempts by Government to simplify the tax regime (in 2006) have only led to further complication.

It is evident that since RDR, fewer consumers are prepared to pay for advice now they are aware of its full cost. For many, the cost of advice represents a significant percentage of their pension or savings pot, and the availability of alternative sources of information makes DIY choices more attractive.

Meanwhile, there is an increasing need for help for small and micro-employers as they begin to stage their auto-enrolment schemes. Our research has shown that there can be considerable variability of worker outcomes as a result of a poor choice of auto-enrolment scheme. This would be particularly true for firms with a high proportion of low-waged staff and high staff turnover, where choice of a scheme with a monthly administration fee levied on the member could result in early leavers' pensions being completely eroded by charges.

Q19: Where do you consider there to be advice gaps?

	Taking an income in retirement (including through equity release)	Saving into a pension	Saving for short-term needs	Taking out credit and managing debt	Investing	Getting retail general insurance cover	Getting life insurance and protection cover	Taking out a mortgage
Starting out		●		●				
Living for now		●		●				
Hard pressed		●		●				
Striving and supporting		●						
Stretched but resourceful		●			●			
Busy achievers					●			
Affluent and ambitious								
Mature and savvy								
Retired on a budget	●							
Retired with resources								

Q21: Which advice gaps are most important for the Review to address?

In order to provide most benefit, the review should address those areas that have either the most vulnerable clients or have the most economic impact.

Thus, the review should address in particular:

- At retirement advice, in particular for the generation now approaching retirement with little or no defined benefit pension and less than £50,000 in DC pension savings.

- Support for younger people with a basic level of advice around debt management, savings and the concepts of retirement etc. The aim of this should be to allow the younger generations (Y & X) the best start possible to building their personal savings and investment provision.

- Help for the small and micro-employer market to decide the most appropriate auto-enrolment scheme and default investments.

In addition, the exempt status of protection from the commission ban should be reviewed. It is illogical that annuity sales (and for that matter other protection products) can still attract commission while drawdown advice must be paid for explicitly.

Q22: Do you agree we should focus our initial work on advice in relation to investing, saving into a pension and taking an income in retirement?

Much of the confusion providers have, and many of the complaints around a lack of clarity, relate to these areas. That said, we believe in order to tackle the major issues, a wider and more holistic advice provision will be required by many.

The review should be looking to focus on the holistic financial needs of clients, and not on the needs that relate to products that providers want to sell them. For example, are protection needs met? Are emergency cash reserves held? Are debts efficiently managed?

On a wider note, it is important that progress is made in getting people to relate to their finances in a more meaningful way, and to take ownership of their future wealth and needs. The lack of engagement in the UK is stark and has a very negative effect on the savings ratio (which is less than half that of comparable European nations).

Q23: Do you agree we should focus our initial work on consumers with some money but without significant wealth (those with less than £100,000 investible assets or incomes under £50,000)?

Yes. In terms of salary and assets held, these values will represent a proportion of the population in need of advice who are generally not receiving it.

Q24: Are there aspects of the current regulatory framework that could be simplified so that it is better understood and achieves its objectives in a more proportionate manner?

Yes. Much of the existing regulatory framework has been built up over years in a series of attempts to counteract bias in a sales process where advisers were paid via product commission. RDR has transformed the retail investment landscape and, if the ban on commission was extended to execution-only distributors then large parts of the Conduct of Business Sourcebook would no longer be required.

This would enable the FCA to focus less on the regulation of process and much more on outcomes. Product suitability would still be important but could be monitored far more easily by reviewing the rules and algorithms employed. Providers would then be free, for example, to make their own decisions on how they communicate with clients.

Q25: Are there aspects of EU legislation and its implementation in the UK that could potentially be revised to enable the UK advice market to work better?

In terms of the translation of European legislation to date, Altus believes that the transportation to the UK market has provided a more consistent view for firms. Altus has some concerns around the definitions of complex instruments in MiFID (pensions) and whether these may cause providers issues. Altus would suggest that much of the advice legislation in Europe (under MiFID) would not be required if the proposed changes around explicit liability and disclosure were implemented and all bias was removed from the sales process.

Q26: What can be learned from previous initiatives to improve consumer engagement with financial services?

Customers are far more involved with some aspects of financial services than ever before. The evolution of online systems for retail banking means that people are more exposed to the work their bank does for them. As a result, customers are beginning to value its services more than they have before.

The same engagement does not persist across all of the financial services industry, and this is especially true of investment and pensions providers. We know from most initiatives and advertising campaigns that many consumers will not seek out investments in their own right. They need to be presented as part of a solution to a tangible problem that clients are facing, and presented alongside things the customer does understand (banking, mortgages, insurance etc.).

Altus also believes the FCA should look to challenge perceptions that the product simplification initiatives of the past would not work today. These initiatives were all carried out in a very different regulatory environment where there was little incentive for advisers to sell them. In a post RDR world, a simplified product would potentially be better received.

Q28: What steps can be taken to address behavioural biases that limit consumer engagement without face-to-face advice?

We expect to see the industry moving towards an omni-channel delivery of advice. People have differing needs and preferences regarding how they interact with advisers, and financial services firms more widely. As a result of this, they may look to obtain advice services face to face, over the phone, via the internet to a real adviser, or via the internet receiving automated advice. Importantly clients will look to do a combination of these approaches, and providers will need to be flexible in what they can offer.

Q29: To what extent might the different types of safe harbour described above help address the advice gap through the increased incentive to supply advice

Altus suggests that a safe harbour for certain types of products and services is a good idea and would encourage innovation and competition in a controlled way.

Potentially the FCA could look to further this work by some kind of means testing of clients (via capacity for loss) to still have some kind of assurance around more complex products.

Importantly, the FCA needs to find a way that firms and consumers can understand the implications of certain products for them, be this via an app or an internet site. Altus have previously suggested a traffic light system of pre-vetting for products. This combined with a safe harbour policy would add a lot of clarity for providers and clients.

Q30: Which areas of the regulatory regime would benefit most from a safe harbour, and what liabilities should a safe harbour address?

If a safe harbour is brought into the UK regulatory market, it would be better focussed on particular products as opposed to particular processes or areas of the regulatory regime. Essentially, products which fall within safe harbour would be exempted from large sections of COBS.

Q31: What steps could be taken to ensure that a safe harbour includes an appropriate level of consumer protection?

Consumer understanding has always been a challenge in this respect, and firms need to find engaging ways to test their understanding. This should be driven by interesting uses of technology, and potentially the addition of gamification into the process.

Altus would challenge whether investors need a detailed understanding of how investments work in order for them to invest in them. This is already the case for many people in the auto-enrolment regime. Many of the millions of people in the scheme will not have a detailed understanding of how investment funds work, yet they are paying contributions towards one. The important points are that people understand the risks associated with investing and that they know the outcomes they are aiming for and the benefits they get from investing.

Q32: Do you have evidence that absence of a longstop is leading to an advice gap?

The press has reported numerous anecdotal comments from the adviser community that this is an issue, but whether it is stopping advisers servicing clients is another matter (and this would have to be the case for it to be causing an advice gap). Compliance departments in larger firms cite this occasionally, although infrequently. It is usually a lesser issue than the general liability concern.

It is also often mentioned that the lack of a longstop can result in clients raising complaints about products after they have technically been closed down/expired. It would make sense that complaints about a product be raised within its working life, or within a short and limited time frame afterwards.

Q33: Do you have evidence that the absence of a longstop has led to a competition problem in the advice market e.g. is this leading to barriers to entry and exit for advisory firms?

No, Altus does not believe that the lack of a longstop is enough of an issue to stop firms entering the market, or to force firms to leave the market.

Q34: Do you have any comments about the benefits to consumers of the availability of redress for long-term advice?

Altus believes that through the application of product regulation and a safe harbour principle the ability for redress for long term advice could be reduced/removed. In principle, it can encourage some bad behaviours (see PPI and Endowments for examples of overly litigious responses and potential dishonesty).

Also, it is unrealistic for advisers to think that clients should never have the opportunity for redress for their services. They are a business and as such, there is always the potential for litigation (hence the need for PI cover). The challenge is to demonstrate to consumers what liability is covered by their provider.

Q35: Do you have any comments or suggestions for an alternative approach in order to achieve an appropriate level of protection for consumers?

Product regulation by the FCA combined with customer categorisation via capacity for loss assessment would provide an adequate level of protection for most customers. This could be assisted by disclosure of liability and variable liability cover for consumers taking advice.

Any transactions occurring outside of this framework could be assumed to be more complex instruments or more complex needs, and as such, should be addressed on a sold as seen basis.

Q36: Do you have any comments on the extent to which firms are able to provide consistent automated advice at low cost? Are you aware of any examples of this, either in the UK or other jurisdictions?

Thanks to advances in technology over the past few years there is nothing stopping firms developing automated advice solutions supporting a range of client needs. We expect to see this becoming a core part of most client propositions over the next year.

Some firms will look to develop solutions in house, while some will integrate technology from software vendors like Wealth Wizards or Money on Toast. Ultimately, these solutions will usually sit alongside human interaction (remotely or face to face) and these people will either be providing regulated financial advice or guidance on how to complete bits of the process/ technical support.

We expect to see an increase in the scope of automated advice solutions over the next few years. They will begin to cover more and more pieces of the advice process, and serve more complex needs. We also expect to see the use of artificial intelligence in delivering advice. This advancement will likely first manifest in some of the more complex robo-advice algorithms.

Q37: What steps could we take to address any barriers to digital innovation and aid the development of automated advice models?

A key aspect to providing technological advancement in the financial services industry is that of identity. Therefore, supporting the work currently being carried out on digital passports and digital identity management will be essential.

The other fundamental element of innovation in financial services will be the use of data. In order to promote innovation initiatives like the banking API/MiData should be embraced. There is huge potential in harnessing the data which exists about customers to make the advice process more efficient and lower cost.

There are also big challenges in this space as providers often struggle to use their own data, let alone incorporate other people’s data. Government backed initiatives to improve this will ultimately drive more efficiencies in this area, but providers will have big challenges in complying when it comes to their legacy data.

In addition, providers having a clear understanding of their liability for the advice they provide to clients will encourage innovation. Currently, firms are concerned about the uncertainty of potential litigation in the future.

Q38: What do you consider to be the main consumer considerations relating to automated advice?

Consumers are concerned about their data security, as with any online interaction. They will generally be happy for providers to use data about them, but only if it offers them a tangible benefit. Therefore, the presentation of the outcome of advice, and the value of the advice itself, is essential to ensuring consumers are happy with the use of their data.

Q39: What are the main options to address the advice gaps you have identified?

Altus believes that the use of account aggregation software (taking in all data relating to a customer's financial life) combined with a digital passport/identity initiative could dramatically reduce the cost of the fact find process.

In addition, the use of automated portfolio construction and rebalancing can be used to remove a requirement on the consumer to make active investment decisions and could ultimately result in better investment outcomes for those clients it serves.

Q40: What steps should we take to ensure that competition in the advice markets and related financial services markets is not distorted and works to deliver good consumer outcomes as a result of any proposed changes?

If the FCA is willing to protect providers through a simplified product regime/safe harbour initiative, competition in the industry will flourish. In addition, in order to encourage trust, the FCA should look to put automated advice solutions through the same testing criteria that a human adviser should have to go through.

Q41: What steps should we take to ensure that the quality and standard of advice is appropriate as a result of any proposed changes?

The regulator needs to audit and approve the algorithms and decision trees which underpin automated advice. This will become increasingly difficult as we move towards the use of artificial intelligence in delivering advice (as per question 12).

3 ABOUT ALTUS

Altus offers two unique and independent services to the financial services industry: **Altus Consulting** and **Altus Business Systems** solutions.

Altus Consulting is a specialist provider of consultancy services to the Financial Services sector. We help clients achieve operational excellence and improved returns via a combination of proven industry models, technology expertise and market insight.

Altus Business Systems offers a range of industry leading investment automation solutions, dedicated to improving operational efficiency of companies within the Financial Services sector to keep their business critical processes running smoothly.

For more details of either of these services please visit our website altus.co.uk or contact us on 01225 438000.

END OF DOCUMENT

Association of Mortgage Intermediaries

Association of Mortgage Intermediaries' response to HM Treasury and FCA Financial Advice Market Review call for input

About

This response is submitted on behalf of the Association of Mortgage Intermediaries (AMI). AMI is the trade association representing over 80% of UK mortgage intermediaries. It is a non-confidential response as we consider that as a trade body any comments we make should be transparent and justifiable. We understand why some firms may wish to have confidentiality over commercially sensitive data or matters, but do not consider this extends to trade bodies who should be delivering "industry" views and evidence.

Intermediaries active in this market act on behalf of the consumer in selecting an appropriate lender and product to meet the individual consumer's mortgage requirements. Our members also provide access to associated protection products. Approximately 70% of all mortgage transactions are advised by intermediaries.

Our members are authorised by the Financial Conduct Authority (FCA) to carry out mortgage and insurance mediation activities. Firms range from sole traders through to national firms and networks, with thousands of advisers.

Introduction

We agree with the statement made in the call for inputs that there is no advice gap in the mortgage market, which we believe is working well for consumers.

We strongly believe that the requirement for mortgage transactions to be advised is a good outcome for consumers. Whilst we agree that developing digital solutions in the financial services industry is seen as the way forward, and this is how some consumers expect to be able to interact with firms, we are concerned about lenders' promotion of online execution-only channels available for all consumers. Where no advice is given there is a significant chance that consumers will not have the most suitable product, and in some cases the product could be wholly inappropriate. We would also seriously question certain 'execution-only' models with a decision tree design which guides consumers through a series of questions before presenting the available product(s). We strongly believe that this is not execution-only and this process represents limited advice which could lead to consumer detriment. Consumers should retain their full rights and protections when going through such routes.

Key issues

We would not want to see the work carried out by the FCA leading up to and during implementation of the Mortgage Market Review (MMR) to be unravelled, which introduced the value of advice and the need for consumers to obtain it. As demonstrated in the FCA's thematic review of mortgage advice and distribution, consumers often think they know what product they want whereas advisers will fully assess their needs and circumstances before considering a suitable product, and will challenge any consumer preconceptions.

Intermediaries also make the mortgage market competitive; if the majority of, or all, consumers obtain mortgage products (either advised or non advised) directly from lenders, there is a higher chance that lenders will be less competitive. Indeed the former Deputy Chairman of Santander Group in evidence to the Treasury Select Committee in 2010 set out that the UK model with a high intermediary focus ensured that lenders delivered more competitive products than was the case in other jurisdictions.

Whilst some view holistic advice as better serving consumers, we believe in practice this would be detrimental for a number of reasons. Firstly, the segmentation of the FCA rulebooks has driven the different types of advisers we have today. Although the requirement for advisers to be appropriately qualified and to have a high level of competence can lead to good standards of advice, in practice this means that there are few advisers who will be qualified and competent in more than one, or even two, sectors. This is not just due to capacity to expand scope but also the ability to be able to do so successfully. In the legal profession, one would not expect a lawyer to be proficient in all areas of law but to specialise in certain fields.

Consumers in the Right to Buy, Shared Ownership and Help to Buy sub-sets are in need of specialist advice. The nature of this market segment is that they are better served by those who look across a wider set of lenders.

Consumer attitude to mortgages and advice demonstrates another barrier to holistic advice. Most of our members advise on mortgages and protection, yet take up rates of protection are low (typically between 10% and 20% on residential mortgage transactions). When consumers seek mortgage advice, the primary trigger is the housing transaction, and the need for it to be completed within a certain timescale. Most see advice as a by-product. This is of course very different to the mind-set of consumers seeking investment advice. Our members find that the overwhelming majority of consumers are not expecting and often unwilling to discuss any other needs they may have, even those related to the commitment to pay their mortgage. One firm has conducted consumer research and has found that 80% of individuals don't want to be advised on any other products except for the mortgage. Whilst most consumers do not want to discuss or purchase protection, a significant proportion do have a need for cover.

Conclusion

We believe that the most suitable method of delivering advice, for both firms and for consumers, is a strengthened triage system where advisers are able to identify consumer needs and refer them to specialists where necessary.

We don't believe there are any advice gaps in the mortgage or protection sectors, but there is a need to encourage consumers to consider protection. We appreciate that there are gaps in other parts of the advice market. We would ask that any remedies to reduce these are carefully considered so that any changes to Perimeter Guidance, what constitutes advice, safe harbours or "approved products" does not have collateral impact on a mortgage advice market which, on the whole, appears to be working well for consumers.

AMI members are against the need for introducing a long-stop and are happy that the principles of insuring legacy liability or leaving capital behind are already established in the market. Advisers and firms can already avail themselves of these solutions. The Financial Services Compensation Scheme (FSCS) levy structure however is in urgent need of reform as we can see little justification for protection advisers paying for the use of unauthorised investments in the pensions market. AMI does not consider that the issues raised by others precludes progress on consulting on the new model for FSCS funding.

Specific questions

Q1: Do people with protected characteristics under the Equalities Act 2010, or any consumers in vulnerable circumstances, have particular needs for financial advice or difficulty finding and obtaining that advice?

No comment.

Q2: Do you have any thoughts on how different forms of financial advice could be categorised and described?

Financial advice could be described as relating to either the creation of debt (e.g. mortgages), the protection of debt (e.g. life assurance), creating wealth (e.g. investments) or drawing down wealth (e.g. at retirement). Historically saving meant the accumulation of a sum which might be available for investment. Investment was the application of such an accrued sum for a longer term for either income or growth. The terms should not be inter-changed as many do today.

Q3: What comments do you have on consumer demand for professional financial advice?

The majority of consumers still want to speak to someone regarding what could be argued as the most important transactions of their lives, and by doing so they expect advice rather than guidance. These must be on their terms at a time that suits them. Most however find the agreement and payment of significant fees to be a barrier to embracing discussions. Procuration fees continue to work well in the mortgage market and we consider it must return in other markets although such payments from the product should perhaps be across a longer term, rather than high initial amounts. Payment should stop if the product lapses, with no liability on the consumer to make good any implied balance.

Q4: Do you have any comments or evidence on the demand for advice from sources other than professional financial advisers?

Some consumers will look at price comparison websites (PCWs) before coming to an adviser. PCWs give only limited information to the user whereas intermediaries will take all factors into consideration when recommending a suitable product including but not limited to criteria, service levels, revert to rate, fees and rate vs loan size. PCWs can often lead to consumers approaching advisers with a specific product in mind without consideration of other needs. It is important to note that due to the nature of their commercial arrangements, PCWs are focused on keeping consumers engaged (hence the limited questions asked and therefore the restriction on results that are displayed) and encouraging consumers to flow directly through to their commercial partners' websites. Examples of their limitations include not being able to identify or display the timing of when fees are taken, whether they can be added to the loan, the length of the offer, or when a particular fixed rate starts – one month from offer or from drawdown. We believe that PCWs can be useful for some types of consumers to give an indication of available products in the market (although this can be misleading for other types of consumers who are not eligible for these products), however we are very concerned about consumers being able, and encouraged, to subsequently click straight into the application process on an execution only basis. As this is based on a very limited fact find the suitability of the product selected by the consumer is questionable.

When consumers arrive with a product in mind, having researched the market via PCWs, it is the adviser role to test the assumptions in their research and advise on the feasibility of attaining that product. In addition there may be other more appropriate lenders. This is particularly the case if the consumer has complex income, recently changed job, payment history issues or the property does not value as anticipated.

Mortgage products have fee versus interest rate trade-offs, different options on over-payment and rules on porting amongst others. For some consumers these are significant and therefore good dialogue with an adviser that leads to an advised sale is essential. Whilst price is important, it cannot be at the expense of a product that is unduly restrictive given the long-term nature of the contract. Also in discussions it might be that one element of preference over-rides all others, such as speed to offer to allow exchange of contracts, therefore an adviser who can establish especially the relevant personal facts especially those outside the routine content of any online decision tools is essential. The importance of a fact may only exist for a limited period of time and does not always follow through to later decisions.

Consumers choosing the 'cheapest' product can mean an unsuitable or less suitable product is chosen. As an example, because they have not considered factors such as whether they need security in interest rate rises and for how long, the likelihood of moving house, or the availability of flexible mortgages, this could result in:

- choosing a short term fixed rate perhaps with a high fee because it looks like the cheapest monthly repayment without consideration of remortgaging costs after a short period of time, or
- choosing a long term fixed rate because they want certainty in monthly payments but being unaware of the impact of early repayment charges when they are likely to move house before the period ends, or
- not benefiting from an offset mortgage where they have substantial savings or a volatile cashflow.

Terminology across products needs to be made consistent as this also impacts on consumers' abilities to understand different features. The recent CML/Which? initiative was a start, but only touches the charges element and lacks precision on issues such as valuation fees. We consider that more could be done to standardise terms, which may become easier once all lenders migrate to the Mortgage Illustration (ESIS).

We remain concerned that some lenders have adopted an online execution-only approach for product transfer business, particularly selecting against customers which they view as 'higher risk'. Whilst this may be appropriate for some customers, there is enough evidence in the advised intermediary market of the need to change customer perception to another product and that a significant proportion may not be achieving the optimum result. There are other disadvantages of the execution-only route, for example a lender will not often update the property valuation so this impacts the size of the loan offered, the LTV, the cost etc. In addition, some lenders have a very limited product set and we remain concerned that there are not enough referrals out of lenders where there is a product gap related to the personal circumstances of the borrower.

Self-service using web based systems will only make this issue worse because the use of technology to facilitate product transfers without advice may not be in the best interests of consumers, as they may mislead. In some cases by transacting on this basis they may lose protections from the Financial Ombudsman Scheme (FOS) or FSCS without realising.

Q5: Do you have any comments or evidence on the financial needs for which consumers may seek advice?

When consumers seek mortgage advice they do so with the housing transaction in mind and the need for this to be completed within a certain timescale. They are very often uninterested in any other needs they may have, even those that closely relate to the transaction such as protection. Whilst most consumers do not want to discuss or purchase protection, a significant proportion do have a need for cover.

Q6: Is the FCA Consumer Spotlight segmentation model useful for exploring consumers' advice needs?

No comment.

Q7: Do you have any observations on the segments and whether any should be the subject of particular focus in the Review?

No comment.

Q8: Do you have any comments or evidence on the impact that consumer wealth and income has on demand for advice?

No comment.

Q9: Do you have any comments or evidence on why consumers do not seek advice?

It is important to note that the whole financial advice market is not the same; this is not a significant issue in the mortgage sector, where the MMR has led to most transactions being on an advised basis. There are exceptions where some lenders' advice processes are particularly lengthy, leading to consumers finding it difficult to shop around between lenders themselves. Four hour interviews have been reported based on what we consider to be over-onerous interpretations of the new rules and poor technology that are linear rather than intelligent and adaptive.

However in the protection sector, we believe one reason that contributes to the low levels of take up of individual cover is the regulatory process. The cost of advising and need to require a full fact find (even though a lot of information will have been gathered from the mortgage fact find) is disproportionate to the risks involved in the product recommended. We rarely see complaints or individuals having too much cover, but do see situations where products do not cover core risks or have exclusions that the consumer was unaware of. Advice is core and we remain concerned that a number of FOS decisions where products may have not been entirely suitable have led to compensation that makes the sector wary of taking responsibility and selling from a wide range of manufacturers.

We are also concerned in this sector that PCWs supply good information but the cheapest will come with significant excesses or exclusions which may not be as transparent as we would like.

Any move to digitise the market should be on a level playing field. At this time lenders do not normally accept execution-only business from intermediaries but if they develop their own execution-only models, they shouldn't preclude brokers from this service.

Q10: Do you have any information about the supply of financial advice that we should take into account in our review?

No comment.

Q11: Do you have any comments or evidence about the recent shift away from sales based on professional advice, and the reasons for this shift?

No comment.

Q12: Do you have any comments or evidence about the role of new and emerging technology in delivering advice?

We are concerned about the concept of automated advice on the basis that it would be very difficult to accommodate all consumers' different needs and circumstances and be able to recommend the most suitable mortgage product. Currently intermediaries are likely to use sourcing systems to aid their recommendation. These systems are a research tool and complement intermediaries' all-round knowledge of lenders and products in the market. However intermediaries know that there are occasional issues with data accuracy although this is strongly managed by both lenders and the sourcing systems. It is the expert knowledge of the adviser alongside the sourcing system that ensures consumers get the right product. Whilst sourcing systems are excellent tools they are only part of the advisory armoury as advisers will challenge the assumptions made by consumers to ensure they get the right product. We struggle to see how automated advice will be able to do this effectively.

There are clear segments in the mortgage advice process which are not clearly set out in the conduct rules, but were raised in the recent thematic review as needing to be set out to the consumer so that they are aware of where that are in the process. These tend to be broadly set out as:

- Information-only and general enquiry and discussion
- Fact-find
- Mortgage application
- Underwriting
- Administration and completion
- Post-completion administration

These components can be undertaken by the same or different persons or firms. Accordingly, clarity is required in what is a complex product process.

Q13: Do you have any comments on how we look at the economics of supplying advice?

Whilst intermediaries will have a clear and transparent remuneration structure, lenders will price the cost of providing advice into their products and we don't believe that this is calculated accurately. As previously mentioned, we are concerned that as a result, some lenders are pursuing avenues where consumers do not receive advice. It is difficult for consumers to effectively assess all information when obtaining a mortgage on an execution-only basis, and also potentially when receiving advice directly from a lender who may not choose to draw attention to certain product restrictions, or revert to costs or features. However intermediaries will not only emphasise certain terms and conditions for consumers but they will have taken these into account when recommending the most suitable product. Consumers will naturally over-rely on the positive elements of a transaction and ignore any adverse data.

As well as looking at online execution-only channels for all consumers, another area where this is emerging is in the remortgage market where lenders assess 'good risk' borrowers approaching the end of their fixed period and will offer a product to transfer to. Whilst this may appear to be competitive, lenders are contacting these borrowers, say four months before the end of the period, but they will not release information on products to intermediaries until three months, with the hope that the consumer will take up their offer without receiving advice from an intermediary who will look at all of the market. This can therefore lead to an unsuitable and / or poor value product being taken by the borrower. In addition, we are concerned that specific borrowers are being targeted with these 'offers' leaving others to become trapped.

Q14: Do you have any comments on the different ways that firms do or could cover the cost of giving advice (through revenue generation or other means)? Do you have any evidence on the nature and levels of costs and revenues associated with different advice models?

We strongly believe that procuration fees should remain as a remuneration option within the mortgage market. There is no conflict of interest between intermediaries and lenders resulting from remuneration; the FCA has already investigated procuration fees and found there was no bias in advisers' recommendations. We believe that any comparisons with the investment sector are not realistic – the procuration fees paid by lenders are significantly less than the commission rates which existed in the investment market (yet the average loan and investment amounts are the same) and there is no difference in the mortgage rate if a consumer goes direct to a lender instead of through an intermediary. Most intermediaries do not rely solely on procuration fees, instead charging a fee or a hybrid model where the consumer can choose to offset the procuration fee against the fixed fee. Even for those that do not charge any fee, this is an equally welcomed option for consumers who do not want to pay a fee for advice. Intermediaries are clear and transparent about their remuneration, which is disclosed upfront and the amount set out in the Key Facts Illustration. The Mortgage Credit Directive will introduce further disclosures from March 2016 which enhance this transparency.

Q15: Which consumer segments are economic to serve given the cost of supplying advice?

Mortgage intermediaries will serve all consumer segments regardless of loan size; it is very unlikely that a consumer will not be able to seek mortgage advice from an intermediary. Non-straightforward applications will in fact count for a higher proportion of consumers advised by intermediaries than those advised by lenders due to the limitation of meeting one lender's criteria. We believe there is therefore no advice gap in the core mortgage market. However consumer segments including Shared Ownership and Right to Buy can be at a higher cost due to the higher risk taken on by the adviser.

There is also an overall concern from firms about taking on advice risk, specifically in relation to certain FOS decisions regarding retrospective regulation. It is not reasonable for current regulatory standards to be applied to historic cases where different regulation was in force, or where the industry as a whole, including the regulator at the time, believed that the actions they were taking were complete, responsible and appropriate.

Q16: Do you have any comments on the barriers faced by firms providing advice?

The main barrier to entry for intermediaries is the level of regulatory fees. As well as mortgage intermediaries seeing an 8.5% increase to their FCA fees this last year, the introduction of consumer buy-to-let fees, which will unjustly sit outside the minimum fee structure, will add a further £350 per year. This has a great impact on smaller firms who, together with an 8.4% increase to the minimum fee, will see an increase of almost 40% (see appendix 2 of our previous consultation response). At this rate smaller firms with low income, when also faced with the FSCS levies, will be priced out of the financial services industry by the over-burdensome impact of FCA funding.

Over the last decade, since the FCA has been responsible for regulating the mortgage market, the cost of regulation has increased dramatically; importantly it has been significantly in excess of inflation and at a rate where it is impacting firms' budgets. As an example, one member firm has experienced an increase of FCA fees of over ten-fold in the last 10 years whereas its turnover has only doubled. Firms have not seen an increase in regulation during this period, perhaps with the exception of the MMR, so we cannot reconcile the benefit of these fees.

With regulatory fees making up a high proportion of firms' costs, firms have struggled to innovate. Many broker firms would like to increase their IT budgets and expand their staffing, but cannot given the limitations they face, so they must prioritise their resources accordingly. These higher fees which firms are struggling to pay will ultimately be borne by the consumer.

Considering the Senior Persons regime will be extended to intermediaries and the change in the FCA's supervisory structure, firms are becoming more responsible for their own supervision so we do not see how an increase in fees can continue. In addition, we believe that the cost of regulation should be more focused on products than on its distribution as ultimately the responsibility for the product, including its costs and target market, lies with the manufacturer, as emphasised by the European Banking Authority guidelines on product oversight and governance.

This year the FSCS levy has been the most burdensome for member firms whose invoices have more than doubled since last year (and they will be required to pay this higher amount next year) due to several mis-selling scandals within the pensions industry. Whilst we support the safety net that the FSCS provides for consumers, we strongly believe that the calculation of the FSCS levy needs to change as its original purpose, as implied in the legislation, was to categorise firms who carry out similar business. As the structure has changed since outset, this is no longer the case because there is very little crossover between mortgage intermediaries and pension advisers.

Q17: What do you understand to be an advice gap?

Following the implementation of the MMR, the majority of consumers now receive advice and approximately 70% of mortgage transactions are advised by intermediaries. We therefore believe there is not an advice gap in the mortgage sector. Depending on the choices made by firms around scope from 21 March 2016, there could be potential for a gap in relation to consumers for whom a second charge mortgage may be more appropriate. However whether this will exist or to what extent will not be known until at least a year's time. We therefore do not believe it would be prudent to look at this market whilst the Mortgage Credit Directive (MCD) changes are still being embedded and the first and second charge markets continue to develop.

As previously mentioned, we believe regulatory barriers have led to low consumer engagement in the individual protection sector. Whilst consumers do not often seek protection advice, intermediaries will have assessed their needs and circumstances as part of the mortgage advice process and raise the need to consider protecting their mortgage liability. However in the majority of cases, after having gone through the mortgage advice process consumers are unwilling to go through another long process with a full fact find for a product they didn't ask for in the first place. We therefore believe improvements could be made in this area to encourage engagement.

Intermediaries will give protection advice to any consumer, like mortgages, rather than setting a threshold at which they decide to accept business, so in this respect there is not a gap in protection advice.

Q18: To what extent does a lack of demand for advice reflect an advice gap?

No comment.

Q19: Where do you consider there to be advice gaps?

We don't believe there are any advice gaps in the mortgage or protection sectors, but there is a need to encourage consumers to consider protection.

We do however believe there is a product gap, for example for certain older borrowers. Consumers can access advice easily and intermediaries are not restricted in who they will advise, however for some segments there are not suitable products available, which we discuss further under Q24.

Q20: Do you have any evidence to support the existence of these gaps?

No comment.

Q21: Which advice gaps are most important for the Review to address?

We believe that there are advice gaps in the investment and pension sector due to the unwillingness of consumers to pay for advice which can be acute when the investment amount is small. We agree the review should principally focus on these areas.

Q22: Do you agree we should focus our initial work on advice in relation to investing, saving into a pension and taking an income in retirement?

Yes.

Q23: Do you agree we should focus our initial work on consumers with some money but without significant wealth (those with less than £100,000 investible assets or incomes under £50,000)?

We consider that these numbers may be lower than our connections with the investment market indicate as the threshold barrier to those who are prepared to pay fees. However as a starting point to construct workable models it makes sense.

Q24: Are there aspects of the current regulatory framework that could be simplified so that it is better understood and achieves its objectives in a more proportionate manner?

We believe the regulation should be amended to allow for lending into later life and the regulator should exert more pressure on lenders to accommodate this, as many older borrowers are trapped from accessing mortgage products.

Another area of regulation which contributes to mortgage prisoners is certain aspects of the affordability assessment, such as the requirement for lenders to assess affordability over the life of the loan. We don't believe the assessment should be focused on certainty for lenders, which in this scenario cannot be given, but instead could be amended so lenders assessed the probability of the income being sustainable over the life of the loan, which seems a more practical approach. The all-encompassing affordability assessment has a great impact on the equity release market, for which we believe it should be adjusted. For example if there are two applicants then lenders are required to assess affordability on the basis that the individual with the highest earnings would die first as their loss of income poses the higher risk, whereas for equity release it would be more appropriate for this to apply to the person statistically more likely to die first, based on mortality.

We support fully the five year stressed assessment of affordability. The rule requiring affordability to be assessed for the term of the loan is limiting lenders' abilities to approve some loans and more widely limiting their desire to introduce new products. A general guidance requirement to assess the feasibility of the stated income would be preferable.

As mentioned, take up levels of protection are very low and we believe there is scope for regulation to allow easier access for consumers through advice.

We are concerned that consumers are unable to access more suitable types of products in the equity release market as a result of MMR. The way that the affordability assessment is applied means that flexibility in the payment of products has all but been lost. Some consumers wish to make monthly payments at the outset but would like to have the flexibility to stop these in the event of a sudden reduction in income such as on death of a partner, and subsequently revert to rolling up the interest into the loan. However because a full affordability assessment is conducted, some consumers will be assessed as not being able to afford these payments and are therefore being forced into rolling up the interest, which considerably increases the cost of borrowing. We believe the regulation should allow for a distinction in contractual payments, so that a flexible feature such as making interest or capital repayments during the life of the loan will be exempt from this affordability assessment.

Q25: Are there aspects of EU legislation and its implementation in the UK that could potentially be revised to enable the UK advice market to work better?

The Mortgage Credit Directive reintroduces tangible disclosure. The reintroduction of initial disclosure requirements following their removal under MMR is not welcomed as they don't interact smoothly with a telephone-based advice process. The prescriptive rules mean that if a customer doesn't have or disclose an email address, the adviser will have to break the telephone call in order to send the required information by post. This will lead to a disjointed customer journey which cannot be in their best interests.

Q26: What can be learned from previous initiatives to improve consumer engagement with financial services?

No comment.

Q27: Are there any approaches to the regulation of advice in other jurisdictions from which we could learn?

No comment.

Q28: What steps can be taken to address behavioural biases that limit consumer engagement without face-to-face advice?

No comment.

Q29: To what extent might the different types of safe harbour help address the advice gap through the increased incentive to supply advice?

We are concerned about the introduction of a safe harbour and its impact on consumer outcomes. We do not believe there should be any deregulation around firms having less liability for the advice they provide. However, whilst consumers are aware of the protections of regulation they do not directly see the cost. It is for this reason that AMI supports a move to product levies which could be made obvious to the purchasing consumer, so that they are aware of both the cost of the FSCS and other regulatory protections and clear when a product has that protection.

Q30: Which areas of the regulatory regime would benefit most from a safe harbour, and what liabilities should a safe harbour address?

This should not be applied to the mortgage or protection sectors, and we would be concerned if this is introduced in any sector.

Q31: What steps could be taken to ensure that a safe harbour includes an appropriate level of consumer protection?

No comment.

Q32: Do you have evidence that absence of a longstop is leading to an advice gap?

We have no evidence that the absence has made any difference to the market.

Q33: Do you have evidence that the absence of a longstop has led to a competition problem in the advice market e.g. is this leading to barriers to entry and exit for advisory firms?

We have no evidence to support such a premise.

Q34: Do you have any comments about the benefits to consumers the availability of redress for long-term advice?

AMI is in favour of the current approach where FOS and FSCS are available to provide appropriate redress for what are long-term products. Any move away from this must include appropriate insurance or leaving capital behind. We remain concerned that although this should already exist we see many firms exercise their corporate right to limited liability, but re-appear operating a very similar regulated business under another name with apparent impunity. Good responsible firms find this difficult as they are paying for these “failures”.

Q35: Do you have any comments or suggestions for an alternative approach in order to achieve an appropriate level of protection for consumers?

We consider a product levy that funds the FSCS a more appropriate way of financing longer term liability for firms that have left the industry. Firms that are still trading should be liable for their advice. In addition, AMI members are currently paying for the rising tide of failed investment advice firms falling into FSCS default and good firms picking up the costs. The historic classifications are not appropriate to the world today and need to be changed as soon as possible. Also we fully understand that the Chancellor thought it wrong that banks should benefit from fines levied on their brothers, so sequestered the funds for charitable benefit. If he had limited this to banks it would have been fair.

By taking this from all authorised firms, the benefit of fee reductions to good firms from the fines on bad has been lost. The good firms have lost out in business to those who cheated and have to pay a second time for compensation with no fee reduction where the FCA has caught up with the bad boys.

We agree with stripping the banks of the benefits within that sector, but not the small advice firms that have bought into FSCS, with the concept that offset from the bad would reduce their bill. If firms cannot have their money back, then we need a new contract that is based on a fairer system so that the toxic products have paid towards their solution. A product levy is the most appropriate solution in addition to the fairness of having our fines back.

Q36: Do you have any comments on the extent to which firms are able to provide consistent automated advice at low cost? Are you aware of any examples of this, either in the UK or other jurisdictions?

No comment.

Q37: What steps could we take to address any barriers to digital innovation and aid the development of automated advice models?

No comment

Q38: What do you consider to be the main consumer considerations relating to automated advice?

For financial products such as mortgages, most consumers still want the option to be able to speak to someone. One member firm is conducting research and has found that 59% of consumers prefer to interact face-to-face with a mortgage adviser. This is a very high number in financial services. Another member firm has carried out a trial where consumers had the option to provide their information and needs through online forms, and it found that 87% of the consumers preferred to speak to an adviser over the telephone than complete online.

Intermediaries play a key role in a housing transaction in that they work for the customer and they will help simplify the process, often guiding the customer through wider areas of the transaction such as liaising with other professional parties. The fact that intermediaries will look at a wide range of products from a significant number of different lenders makes them essential in keeping the market competitive.

We believe automated advice will be detrimental for a significant proportion of consumers in mortgage market due to the specialist knowledge that intermediaries have for certain markets such as self-build and new build, and more generally for non-straightforward applications. This can include non-standard properties, income or tenure.

It is also likely to be difficult for any automated system to be able to accommodate 'soft facts' about a consumer or identify other needs, such as debt advice, protection, consideration of wider tax implications (e.g. buy-to-let) and the appropriateness of a second charge mortgage or further advance. An automated system is very much passive. Advisers will challenge any preconceptions a consumer often has, and engage in constructive discussions which often give consumers a greater understanding, which an automated system will be unable to do. Human interaction and the strength of its relationship encourages consumers to make decisions, not automated propositions where there is still an element mistrust from consumers.

We believe that automated, or even a lack of, advice is likely to lead to an unsuitable product being recommended. There is the inability to recognise any flexibility in the consumer's circumstances, such as a consumer who could afford to increase their equity by using savings (even by a small amount) which would result in being eligible for a product with a lower LTV, lower interest rate and overall lower cost.

We do however believe that there is scope for some parts of the advice process to be more automated, for example requesting a consumer to complete a fact find online before discussing it with an adviser, who would then ask further questions and challenge the consumer. However this development very much depends on consumer appetite; as mentioned above one firm already tried introducing this but found consumers did not complete the online forms but instead called the firm during the process.

Q39: What are the main options to address the advice gaps you have identified?

No comment.

Q40: What steps should we take to ensure that competition in the advice markets and related financial services markets is not distorted and works to deliver good consumer outcomes as a result of any proposed changes?

The UK currently has a very competitive residential mortgage market, which is well served by both lenders and intermediaries. There are however anti-competitive issues where segments of consumers should be able to access certain products but are being prevented from doing so as a result of some lenders' behaviour. We believe the FCA could do more to ensure that their rules are correctly and consistently applied.

We are concerned that consumers are being unfairly trapped as they are unable to access more suitable mortgage products due to lenders' interpretation of the FCA rules following implementation of the MMR. Our members are continuing to see borrowers being unnecessarily denied access to mortgage products or lower rates who should be allowed under the FCA's porting and transitional rules. This is in addition to the issue of borrowers who cannot access mortgage products specifically as a result of the application by lenders of their interpretation of the MMR affordability requirements, but "common sense" should not allow them to be trapped. One example is a borrower who may have had a change in circumstances but has not struggled with repayments and is being prevented from remortgaging where the level of borrowing is not increasing and they wish to move to a product with lower repayments.

Our firms continue to experience borrowers being prevented from accessing more suitable products in the following circumstances:

- The lender will not allow a borrower who is moving house to port their mortgage even though their circumstances have not changed. The borrower's current mortgage may likely be a variable rate tracker product which is set at 1% above the Bank of England Base Rate, and is therefore forced to take out a new product at today's higher rates and/or must pay an early repayment charge on the existing mortgage as they are forced to redeem the product.
- The lender will not allow a borrower who is moving house to port their mortgage because the lender is no longer in the market or the asset has securitised.
- Borrowers with an existing interest-only mortgage and sensible repayment plan are forced to switch all or part of their mortgage to repayment.
- Borrowers over a certain age are unable to get a mortgage as they exceed a lender's maximum age or they have retired, despite being able to afford it
- The creation of mortgage prisoners on the basis of affordability where a borrower does not have any arrears yet they can't remortgage on a pound-for-pound basis.
- Lenders of a first charge mortgage refusing to give consent to a second charge mortgage without any good reason, resulting in either the consumer being forced to take a further advance with the existing lender or where this has already been declined, giving them no option to address their needs.
- We are aware of some lenders who segment their existing mortgage account base and apply credit score data to derive a 'propensity to move' score, based on those with a good credit rating versus those who do not. Only the most likely to move are offered the best rates to stay, whilst those with the worst scores are not offered any alternative and left to default to the lender's standard variable rate. This will be much higher than those with a high propensity score. This is explained as a risk decision, but through another lens could be seen as predatory pricing.

It is often vulnerable consumers who are unduly trapped.

We believe any change made to the mortgage market should address this area of trapped borrowers. We are concerned that any changes made to other advice markets should not impact the mortgage market, so we would hope that any amendments to the FCA's Perimeter Guidance Manual are exercised with caution.

Q41: What steps should we take to ensure the quality and standard of advice is appropriate as a result of any proposed changes?

We believe the introduction of the MMR raised the quality and standard of mortgage advice. The arrival of the Senior Persons regime for the wider mortgage market is welcomed. This delivers a level playing field with our lender partners that is the cornerstone of our approach to the market. It enshrines in a more formal setup, the existing responsibilities that firms and their principals have today. Mortgage intermediary firms, since the crisis, have been exercising increasing diligence on both recruitment and regular vetting of their advisory staff.

However the mortgage market is not identical to investment markets. The FCA has only recently identified resource to undertake a review of the syllabus and learning outcomes for the benchmark mortgage qualification. This is required as it does not currently adequately address second charge, bridging and remortgage.

We consider that level 3 is the correct competence level for this market. There are already level 4 qualifications for those who wish to demonstrate a higher standard. However to push the base qualification to that level means including matters such as funding, capital and portfolio risk. This is not core to competent individual advice. So we are not keen to see this escalation in a market which is working well for consumers.

It would risk diverting advisers into a costly exercise to requalify where there is no evidence of any detriment upon which to construct a business case. AMI remains firmly of the view that whilst passing an exam demonstrates core knowledge, it is the work done in firms with managers and supervisors that develops high quality, rounded advisers who deliver great advice, products and outcomes. Competence is much more than a level of an exam.

HM Treasury – FAMR

Financial Advice Market Review – Call for input

Q1: Do people with protected characteristics under the Equalities Act 2010, or any consumers in vulnerable circumstances, have particular needs for financial advice or difficulty finding and obtaining that advice?

Response

Age and disability, may raise obstacles to gaining access to all manner of services, including financial services. In this respect, measures taken at a general, rather than sector-specific, level are likely to address these. Increasing use of technology may increase difficulties for an aging population, but conversely, may improve the situation for the disabled. It is hard to conceive how other protected characteristics would affect access to advice. Those who are severely vulnerable must depend on carers and those carers should have access to advice tailored to the needs of those they care for. I am only aware of this specific type of advice being available via charities.

Q2: Do you have any thoughts on how different forms of financial advice could be categorised and described?

Response

A proliferation of different terminology is not helpful to consumers; the terms tied and independent were reasonably well understood in the market place. The further distinctions used are poorly understood by professional advisers, let alone the public. The holy grail of genuine 'whole of market' independent research and advice is beyond human beings, but technology enables us to get close enough.

Q3: What comments do you have on consumer demand for professional financial advice?

Response

What consumers need and what they want are often not the same thing. There was a failure, pre-RDR, to recognise that many financial products are 'sold' rather than 'purchased' and that when this is the case, it is not always a bad thing.

To me, the emergence of a post-RDR 'advice gap' was an inevitable and obvious consequence at outset. I did provide feedback to this effect in advance of implementation but may have been a lone voice and none of us are perfect at predicting the future.

RDR contained some worthy aims, such as eliminating commission bias and improving the general standards of advice provided to consumers, but did not necessarily take the correct route to addressing these issues. Commission bias was a bad thing but commission in itself, as still payable for 'basic advice', was not. It is no more sinister than the mark-up we pay for every other type of product we are sold. Commission disclosure (to purchasers) is a disincentive to purchase and provides useful information only to those with the time, incentive and sophistication to conduct market comparisons for themselves.

Imagine if the wine list in every restaurant looked like the example below:

Wine	**Description**	**What we pay**	**What you pay**
Blood of the valleys Chilean Merlot	*A remarkably full-bodied warming red, perfect with red meats and strong flavours*	*£5.49*	*£17.95*
Etc.			

Whilst the standard restaurant mark-up may be fully justified by the overheads incurred and the desire for the operator to make a profit, this type of presentation is not conducive to averting 'buyer's remorse'. Given that firms also enter the arena of providing financial advice with the desire to make a profit, no-one should be surprised that there is a charge, but is it really helpful to force information onto consumers.

As a regulatory tool, commission disclosure by firms to regulators, may enable control over commission bias.

Under the commissions regime, wealthy consumers subsidised the less well off. No such subsidy is generally available under a fee-based regime based on charging for time.

Requiring consumers to pay fees for access to financial advice was doomed to failure for the majority. If you stopped people in the street and asked them to name their accountant or solicitor, you would not expect the majority to be able to give you an answer, as they would not generally take the services of such professionals. There is no difference now, in expecting them to be able to name their financial adviser.

The RDR stipulates that the level of difficulty of an Appropriate Qualification should be at, or above, QCF Level 4 qualification, the vocational equivalent to the first year of an academic degree. Faced with commencing study at this level, a young person considering career options, will consider their long-term career and earnings potential. Thus the raising of the 'threshold' qualification level will naturally tend to increase the cost of advice, to equivalent levels in accountancy and legal professions. If not, a shortage of fully qualified advisers is likely to develop.

I do not believe however, that straightforward product, or even holistic advice, for those whose circumstances are simple and straightforward, needs to be provided by such highly qualified advisers. Certainly they need to be well-trained and able to recognise when client circumstances require more detailed technical advice; but the majority of clients they would meet are not likely to require this. I think Professional Bodies promoted their vested interests as qualification providers during the RDR consultation process and again, did provide this feedback to my own professional body at the time. Those advisers who were already qualified or nearly qualified, were of course happy to see barriers to entry raised to new entrants.

A salaried workforce of advisers, whose salaries are supported by commissions received by the employer and not directly related to the earnings of the adviser, could meet the need for straightforward advice. With suitable controls on the employer to ensure suitable advice is given and conflicts are avoided or managed. This model also re-introduces the incentive to ‘close the sale’ of the product. Good advice is worthless if it does not result in action.

Q4: Do you have any comments or evidence on the demand for advice from sources other than professional financial advisers?

Response

There is a huge opportunity for online advice to develop to fill the advice gap for a number of consumers, but commission should be available to fund this business model. The regulator could prescribe a menu of set commission payments, that product provider’s must adhere to in order to subscribe to this distribution model.

It appears unlikely that fee-based advice will prosper online, whilst fee-based investment management solutions are likely to succeed in this environment.

Q5: Do you have any comments or evidence on the financial needs for which consumers may seek advice?

Response

Consumers are more likely to take advice on products for which they have a related life event, such as moving house, or, with the right incentives, planning for retirement.

Other, perfectly valid financial products, such as life assurance, critical illness or permanent health insurance tend to require a sale being made. It is much harder to sell such products effectively without providing holistic financial advice, whereas pensions/savings and mortgage products lend themselves more to a simple ‘product sale’.

Q6: Is the FCA Consumer Spotlight segmentation model useful for exploring consumers’ advice needs?

Response

I am not convinced that it is useful, although it appears a perfectly valid analysis. It is not clear whether there is sufficient homogeneity of behaviour within the defined groups for it to serve a useful practical purpose.

Q7: Do you have any observations on the segments and whether any should be the subject of particular focus in the Review?

Response

Those groups with lower income levels are likely to have more restricted access to advice, but conversely, have more need to take appropriate advice. If the wealthy become slightly less wealthy through limited or poor advice, the impact on their standard of living may be marginal, but for the less well-off it can be devastating and place a burden on society at large to provide support through the benefits system.

Q8: Do you have any comments or evidence on the impact that consumer wealth and income has on demand for advice?

Response

Advice is more likely to be sought by the most well-off. Income inequality is a barrier to individuals being able to provide adequately for themselves. Those struggling to meet day-to-day costs are unlikely to think much about failing to plan for the future; particularly to provide protection for events that may or may not befall them.

Q9: Do you have any comments or evidence on why consumers do not seek advice?

Response

See responses to Questions 3, 4 & 5 above. In addition; we are failing as a country to address adequately, the extremely high cost of housing in the UK. This presents a barrier to people making adequate financial arrangements for their other needs. Just at the point when people should be considering beginning to make serious provision for retirement, their key priority is likely to be attempting to get onto the property ladder. Once they are on the ladder and financially compromised as a result, many will take on the additional burden of raising a family.

Only those with genuine disposable income will consider taking financial advice on how to plan and prepare for their future. We will not succeed in addressing the savings gap in the UK until we have addressed excessive house prices. I realise that housing is beyond the scope of this review, but make the point so that you do not regard it as failure if the outcome of this process does little to improve savings rates among consumers.

Although I am not aware of specific research to support the view, I suspect that those consumers active in the savings and investment market, satisfied their housing needs some time ago.

Anecdotally, there appears to be a growing younger generation that place far more emphasis on materialistic goals and conspicuous consumption, than on planning for a secure financial future, so the situation is likely to worsen if this is a genuine and widespread cultural shift.

There is still strong public perception that financial services are provided by the rich at the expense of the poor that is habitually perpetuated by the media but also reinforced by public censure of, and well-reported fines levied on, wrong-doers.

The government's drive to encourage people to leave the State Earnings Related Pensions Scheme probably succeeded in its aims, but the messages at the time were not wholly 'clear, fair and not misleading'. Responsibility for the resulting pensions mis-selling scandal was however, placed firmly at the feet of advisers and began to turn the tide of public opinion against the financial services industry. The pensions mis-selling scandal arose from our need as a nation to address an impending pensions funding crisis caused by the interaction of our State pensions system and an ageing population. We have taken some steps to resolving this underlying problem, some good, some bad. But just as holistic financial planning advice leads to better outcomes for consumers, so would a holistic approach to the nation's economy lead to a better outcome. FAMR should attempt to seek solutions as widely as possible and will hopefully stimulate review in other areas beyond its remit that have the ability to impact on the nation's savings gap.

In contrast to my somewhat negative comments above; there is now much greater supply of advice and educational material available online, for those prepared to seek out and utilise it. But access to advice and the desire to take it are not the same thing and both need to be addressed by this review.

Q10: Do you have any information about the supply of financial advice that we should take into account in our review?

No additional Response

Q11: Do you have any comments or evidence about the recent shift away from sales based on professional advice, and the reasons for this shift?

Response

See responses to questions 3, 4, and 5 above. No additional comments.

Q12: Do you have any comments or evidence about the role of new and emerging technology in delivering advice?

I think that there is a valid role for online & app-based advice, but it is difficult to see how such activity will gain commercial traction using a fee-based model. Funding from product commissions is likely to be required.

It is also essential that automated advice is derived from and sense-checked by experienced advisers. In order for an advice process to be of value, it must not only provide the correct advice, but must provoke action.

I think automated advice will always come second-place to professional face-to-face advice, particularly in prompting consumers to take action on the basis of the advice.

Q13: Do you have any comments on how we look at the economics of supplying advice?

See responses to Questions 4 & 12 above.

Q14: Do you have any comments on the different ways that firms do or could cover the cost of giving advice (through revenue generation or other means)? Do you have any evidence on the nature and levels of costs and revenues associated with different advice models?

Technological solutions in the savings and investment arena are more likely to be able to generate a perceived added value, but more widespread cultural change is required to shift more consumers into this area of financial services.

I strongly believe that we need to re-introduce the availability of commission payments, although in a prescriptive and controlled manner. Where there is a genuine advice gap, we should not be too worried about failing to achieve perfect competition in the methods we employ to address it.

Q15: Which consumer segments are economic to serve given the cost of supplying advice?

Response

Under the current post-RDR regime, it can only be cost-effective to provide face-to-face advice to those wealthy enough and inclined to pay professional level fees for advice.

Online advice may provide a valid alternative for other consumer groups.

Q16: Do you have any comments on the barriers faced by firms providing advice?

Response

I recognise two barriers: firstly the cost of training and retaining new entrants to the advisory career as noted in my response to Question 3 above and secondly, the almost unlimited risk of regulatory sanction and compensation being imposed on advisory firms. As an example of the latter I know of no better example than the Arch Cru funds where the UCITS funds failed due to the actions of the ACD and Investment Manager. IFAs were held culpable, despite the UCITS funds having been scrutinised and approved by FSA prior to their launch and both the ACD and Investment Manager being FSA-Regulated. I am aware that some within FCA may not share my view of this particular incident, but I would encourage those to re-examine the full evidence now available. The compensation schemes were established long before the FSA investigations were concluded. Professional advisers should be able to trust information provided by other regulated firms and be afforded protection in the event that information is later proved incorrect or invalid.

In cases of genuine mis-selling, we are much better off with FOS than ‘ambulance-chasers’. Some regulation of this sector of legal and quasi-legal firms would help readjust the playing field.

Q17: What do you understand to be an advice gap?

Response

I agree with the definition put forward, but with the caveat that consumers do not necessarily recognise when they have a need, or when they do, that the need is not complex. So the provision of accessible advice must go hand-in-hand with consumer education and simplification of product regulations.

I also agree that the advice gap contributes to the savings gap. Few of us run out of money at the weekend because we spent it all during the working week. I have never seen such a simple message being applied to saving for retirement, but the concept is no different.

Advisers need to be incentivised to provide advice. In broad terms, protection products (barring those required by Law) are sold rather than bought and to a certain extent, sale of retirement savings products also require persuasion on the part of the 'adviser'.

Q18: To what extent does a lack of demand for advice reflect an advice gap?

Response.

As noted in my responses to previous questions, consumers do not always recognise their need for advice, whether or not it is available to them and affordable.

Q19: Where do you consider there to be advice gaps?

Response

For those consumers who are not familiar with paying, or unable to afford, professional advice fees. By definition, these people are not those seeking a home for their investments.

Q20: Do you have any evidence to support the existence of these gaps?

Response

No, just common sense observations from life, over 20 years in financial services and my former experience as a life, pensions and investment adviser.

Q21: Which advice gaps are most important for the Review to address?

Response

Auto-enrolment into workplace pensions will go some way to addressing our most pressing need, but sound holistic financial planning for young families would be my second priority. The most difficult area to address for this group is the provision of adequate protection for unforeseen events, where a product sale is required. This necessitates the reduction of current standard of living in order to protect against possible future misfortune. It requires an advisory process that is also a sales process. For the very young, the timescales involved in retirement planning raise a similar barrier to action, but auto-enrolment helps correct this.

Q22: Do you agree we should focus our initial work on advice in relation to investing, saving into a pension and taking an income in retirement?

Response

No, absolutely not. See response to Q 19 and Q21 above. Savings (into deposits or liquid assets) and then protection, come before investment into longer-term assets. Retirement savings are the priority for investment, but the most pressing need is being addressed by the introduction of auto-enrolment into workplace pensions.

Q23: Do you agree we should focus our initial work on consumers with some money but without significant wealth (those with less than £100,000 investible assets or incomes under £50,000)?

Response

Using the Bank of England data provided, this appears to be 57% of the population by the first measure or 78% by the second, so it seems a reasonable start, if not particularly focused.

Q24: Are there aspects of the current regulatory framework that could be simplified so that it is better understood and achieves its objectives in a more proportionate manner?

Response

Pensions simplification is a major positive step forward and still more could be done to untangle historic issues that create barriers.

It is not clear how SMCR will impact on the investment sector when it replaces the Approved Person Regime, but it would be a good opportunity to review the adviser qualification requirements and perhaps introduced a tiered regime, or simply put the burden back on firms to achieve good outcomes for consumers.

It would be useful to see the definition of independent advice supported by further practical guidance that acknowledges the unrealistic goal of 'whole of market' analysis.

Q25: Are there aspects of EU legislation and its implementation in the UK that could potentially be revised to enable the UK advice market to work better?

Response

I am more concerned about how EU legislation threatens our investment sector, but certain aspects of RDR that I have suggested should be revised or repealed, are reinforced by current and forthcoming EU legislation on fees, commissions and disclosure.

Q26: What can be learned from previous initiatives to improve consumer engagement with financial services?

Response

The introduction of CAT standard and Stakeholder products did have the positive result of introducing competition into product charging, but the level and sophistication of advice required stems from consumer circumstances rather than product type. The 'kitemark' did however, seem to raise consumer confidence.

Q27: Are there any approaches to the regulation of advice in other jurisdictions from which we could learn?

Response

The US model as you have described appears to come closest to providing the solutions that I believe are required.

Q28: What steps can be taken to address behavioural biases that limit consumer engagement without face-to-face advice?

Response

There is an opportunity to provide advice, whether face-to-face or by other methods, when consumers are engaged in a property purchase.

As well as assessing affordability of the mortgage, lenders could be required to ensure that the income of the homebuyers and repayment of capital in the event of their death/s is adequately protected, without being required to put such protection in place themselves.

During auto-enrolment into workplace pensions, employers could be required to provide advice to employees (ideally through free to access services such as the Money Advice Service) to illustrate what might be realistic (rather than minimum) contribution levels.

There may be similar scenarios, where consumers are 'forced' to engage with financial services, that could be exploited to ensure that appropriate related advice is provided. This of course, is exactly what a well-incentivised financial adviser would seek to achieve.

Q29: To what extent might the different types of safe harbour described above help address the advice gap through the increased incentive to supply advice

Response

Advisers should benefit from safe harbour if they have met the regulatory standards and guidance applicable at the time the advice was given. The examples given are worthy of implementation and will require (regulator) defined sets of factors to be considered in relation to certain products. This would include personal circumstances of the consumer and the interactions with certain other products they might hold or consider.

Advice may be rendered unsuitable by unforeseen changes in the consumer's circumstances not highlighted by the consumer at the time of the sale. Advisers should not be penalised for the inflexibility of financial products if, at the time of the advice, they were appropriate for the client's circumstances.

Advisers should be able to rely on statements and information provided by the other regulated firms that provide the products they advise on. Firms should be encourage to whistleblow if they think regulated firms are mis-representing their products.

Advisers should be required only to respond to complaints brought to FOS (a) directly by consumers or (b) the consumers personal representative, where that representative has been engaged directly at the initiative of the consumer and is either a personal friend or relative of the consumer, or if acting in a professional capacity, an appropriately qualified financial adviser subject to compensation limits set by (and perhaps even funded by) FOS.

Q30: Which areas of the regulatory regime would benefit most from a safe harbour, and what liabilities should a safe harbour address?

Response

See responses to Question 29

Q31: What steps could be taken to ensure that a safe harbour includes an appropriate level of consumer protection?

No additional response

Q32: Do you have evidence that absence of a longstop is leading to an advice gap?

Response

No evidence.

Q33: Do you have evidence that the absence of a longstop has led to a competition problem in the advice market e.g. is this leading to barriers to entry and exit for advisory firms?

Response

No evidence in respect of a longstop, but it would certainly be useful for purchasers of going-concerns to know that legacy issues could be insured away with certainty.

Barriers to entry include the timescale, process and cost of gaining authorisation and remaining compliant as well as normal commercial pressures, plus the costs of training or recruiting suitably qualified staff.

Q34: Do you have any comments about the benefits to consumers of the availability of redress for long-term advice?

Response

The current limitations operated by FOS appear to work well. Supplemented by a compensation scheme to step in when the firm is no longer in business, this should provide adequate cover. The funding costs of FSCS however, are a large burden for authorised firms to carry and possibly an additional barrier to entry. It seems more equitable for compensation costs to be funded from fines rather than as a levy on firms that simply serve the retail investor.

Q35: Do you have any comments or suggestions for an alternative approach in order to achieve an appropriate level of protection for consumers?

No Response

Q36: Do you have any comments on the extent to which firms are able to provide consistent automated advice at low cost? Are you aware of any examples of this, either in the UK or other jurisdictions?

Response

I think the provision of consistent automated advice is possible, certainly in routine cases where a client’s circumstances are not complex. The regulator should however, become involved in developing and approving minimum standards for the systems that such firms implement; providing regulatory immunity for any failings that become apparent in future if these standards have been met. Providing advice face-to-face brings with it inherent safeguards that are difficult to replicate by asking consumers to tick boxes or respond to online questions.

Q37: What steps could we take to address any barriers to digital innovation and aid the development of automated advice models?

Response

Providing the support and protection mentioned in my response to Q36 above as I believe is partly addressed by the FCA's 'sandbox' and also by considering how to reduce the regulatory burden that applies to all new firms. IT professionals have a difficult time navigating financial services regulation and the cost of recruiting a suitably experienced compliance professional is prohibitive for start-up firms.

The FCA authorisation team now apply a much higher level of scrutiny to new firms applying for authorisation than in the past. In some cases, going way beyond the assessment of Threshold Conditions.

Certain areas of the FCA Handbook appear not to have kept pace with digital innovation. Both FCA and PRA have issued recent guidance on outsourcing to the cloud, but I have yet to see a valid reason for why the regulator requires access to the outsource provider's premises.

Q38: What do you consider to be the main consumer considerations relating to automated advice?

Response

The lack of impetus to seek out such advice is the first barrier.

FCA approval does not necessarily provide consumers with any comfort that they will receive good advice. The most recent financial crisis was in part triggered by the actions of regulated firms and most in society have been affected in one way or another. So consumers will not know whether these systems are likely to provide good or poor advice until after the fact, unless some form of certification is provided in support of the current regulatory system which provides reactive backward-looking judgement only.

Q39: What are the main options to address the advice gaps you have identified?

Response

The positive re-introduction of a system of 'free to access' advice, for those needing to plan for the basic financial needs of the average individual or family. Such a system will require proactive regulatory backing to deliver the trust required and some form of cross-subsidy, from product sales or otherwise. Technology provides the opportunity to commoditise basic advice cost-effectively and safely.

A system of certified ‘minimum product standards’, could be introduced to help re-build consumer confidence in financial products.

Q40: What steps should we take to ensure that competition in the advice markets and related financial services markets is not distorted and works to deliver good consumer outcomes as a result of any proposed changes?

Response

If basic advice was funded by a regulator-led menu of fixed product commissions, firms would have to differentiate by improving the quality of their delivery of service and product design. In order to improve profitability, firms would continue to be incentivised to reduce operating costs and with the protection offered by meeting certified advice standards on certified products, may be inclined to accept lower commission levels.

Q41: What steps should we take to ensure that the quality and standard of advice is appropriate as a result of any proposed changes?

Response

By setting approved standards of routine advice in conjunction with leading financial planning practitioners that may then be utilised to provide protection to the firms that have adhered to it. By this I mean more than the current regulatory regime, which could be said to offer the same. I envisage approved question flow-charts accompanied by or even incorporating, approved educational material.

APFA RESPONSE TO THE
HMT AND FCA FINANCIAL ADVICE MARKET REVIEW (FAMR)

ABOUT APFA

The Association of Professional Financial Advisers (APFA) is the representative body for the financial adviser profession. There are approximately 14,000 adviser firms employing 81,000 people. 40% of investment and protection products are sold through financial advisers, with annual revenue estimated at £3.8 billion (£2.2 billion from investment business, £1.2 billion from general insurance and £400 million from mortgages). Over 50% of the population rank financial advisers as one of their top three most trusted sources of advice about money matters. As such, financial advisers represent a leading force in the maintenance of a competitive and dynamic retail financial services market.

Summary

1. This is APFA's further response to HMT and FCA's Call for Input in which we set out our views on the major issues that hinder the development of a broad based market and also consider broader questions about the regulatory framework.

2. In our initial response, we focused on ways of addressing the costs of providing financial advice. In this paper we set out comprehensively what we believe to be the principle barriers to making financial advice more accessible and possible solutions to these problems. We remain of the view that there needs to be significant reform of the compensation system, involving the introduction of a longstop and radical changes to the Financial Ombudsman Service (FOS) and the Financial Services Compensation Scheme (FSCS). The cumulative effect of the cost of compensation, FSCS levies, professional indemnity insurance, together with other countless regulatory fees has made financial advice expensive and the prerogative of the wealthy and has prevented firms from investing in greater capacity, expanding and innovating. We also believe, however that there is also need for reform of the regulatory framework to enable the development of cheaper advice models that can cater for a wider audience.

3. One of the most significant issues, that has a serious impact on firms' ability to innovate and extend their services to more consumers, is the FSCS levies. The FSCS levies have been consistently high for financial advisers since the last review of FSCS funding and have reached an all-time high this financial year, with many firms seeing a doubling of their levy payment. The total FSCS levies for the advisers for 2015/16 were £216 million, compared to retained profits of £171 million for last year. The impact on firms is clear. The levies have increased to an unsustainable level and their unpredictability undermines good business planning. Ultimately the costs are borne by the consumers, making financial advice less accessible. We therefore believe that the way levies are raised requires reform to ensure fairness and sustainability.

4. Another serious problem is the lack of a long-stop, a limit on the length of time during which a complaint can be brought. For advisers operating as sole traders or in partnerships the effect of unlimited liability means they carry the liability for advice given until their death. Much of the cost of advice is driven by the need to manage such future

liabilities and having an open-ended liability significantly increases the uncertainty and ability of firms to manage that risk.

5. The level of regulatory costs and associated indirect costs continue to increase and are inevitably passed on to consumers. There is a need for 'better regulation', which could be achieved by introducing measures aimed at cutting regulatory costs for firms, such as simplifying the Handbook, freezing regulatory bodies' budgets for three years and reducing reporting requirements.

6. Addressing the issue of costs will significantly extend the availability of financial advice to a wider market. However, we accept that this is part of the solution as there are limits to how far bespoke advice can be made cheaper. To develop cheaper models of advice for a greater number of consumers provision of a new form of simplified advice (a 'safe harbour' governed by a set of simpler guidelines) will be needed. In order to provide advice at a lower cost, the process must be scalable to realise economies of scale. To meet suitability requirements more simply, the recommendation and products need to be close to suitable for anyone. This can be achieved by reducing the need for detailed information about the consumer and limiting the information needed to identify those for whom it is unsuitable. Simplified advice would need to operate with a limited number of safer products. Technology will have a role to play in providing advice in a more cost-effective way, although we principally see this as another channel to the market and not an answer in itself.

7. It is imperative that any simplified process must be clear and certain and adhered to by FOS. The current framework creates significant problems regarding liabilities advisers face. One of the principal considerations for a firm in taking on a client is the potential liability that comes with advising them and the balance of risk and reward. For investment advice in particular, the costs of getting it wrong are significant. The advice community has concerns about the way in which FOS handles complaints. Whilst we recognise the need for a dispute resolution service for consumers, advisers need to have confidence in the system and belief that FOS considers matters in a fair and equitable way, following the rule of law. In particular, there should be an appeal to a body that is independent of FOS.

8. We believe that education of consumers also has a major role to play, setting out the value of financial advice and how to get it. This would improve consumer engagement with both free financial services such as the Money Advice Service (MAS) and with the paid-for sector.

9. The aim of the Financial Advice Market Review is to improve the availability of advice to consumers. The changes to the way long term care and university education are funded and in particular the recent pension freedoms have placed greater responsibility on the individual. The need for good impartial financial advice is greater than ever and we believe that there is a role for the financial advice profession to play in addressing 'the advice gap'. We believe that the government and FCA have a role to play in helping people see the benefits of pro-actively managing their finances and building confidence in the value of financial advice.

<u>The advice gaps</u>

10. A significant body of research and studies has shown that a large number of people are reluctant or unable to manage their finances and make provision for their future. Research from the Money Advice Service[1] indicates that 23 million people don't know

[1] Money Advice Service: The Financial Capability of the UK 2013

where to go for impartial advice on credit or borrowing, while 7 out of 10 people feel they have no need for advice or guidance on financial matters. Whilst the median household income has risen over the years to £24,500 per annum[2], the household savings ratio has dropped from just above 12% in 1979[3] to just below 7% by 2014[4]. An ONS (2014) Wealth and Assets Survey showed that 49% of households have a net financial wealth of less than £5,000. The Bank of England survey[5] shows that 45% of households have under £4,999 held in savings and investments. Recent Government policy has been to place greater responsibility for managing and planning financial matters on the individual. The recent pension reforms have, in particular, provided much greater flexibility and choice regarding retirement income. The need for impartial financial advice is apparent, yet according to Unbiased and Standard Life research[6], just 18% of the UK population receive or have received advice from an independent financial adviser.

11. Citizens Advice, in a recent paper[7], identified a series of advice gaps. The 'affordable advice gap' consisting of 5.4 million people who are willing to pay for advice, but not at current price levels; the 'free advice gap' consisting of 14.5 million people who would benefit from advice, but are not in a position to pay for it and the 'awareness gap' relating to 10 million people who miss out on the benefits of advice because they do not know advice is available or how to get it. Such numbers are always broad brush, but we think the categorisation a useful way to consider the issue.

<u>The 'affordable' advice gap</u>

12. There is a sizeable portion of consumers (5.4 million according to Citizens Advice) who are willing and able to pay for advice, but not at current price levels. This is a group of willing customers who the financial advice profession could help if appropriate changes were made to the market framework. The Citizens Advice study on this group[8] shows that consumers are particularly interested in expert help with their pension choices. 53% of people surveyed with Defined Contribution pensions said they would strongly want expert support, with 39% saying they would seek help from a financial adviser. In the same survey, the most popular support consumers wanted was clear information about basic options (57%), yet almost as many (56%) said they wanted personalised projections of how taking money in different ways could affect their income.

13. Considering the FCA's consumer segmentation model and gap analysis, we believe this 'affordable advice gap' principally consists of people with some existing savings but not of significant wealth. In the FCA's segments, this would include the 'Stretched but resourceful', the 'Retired on a budget' and possibly some in the 'Striving but supporting' category.

14. As we indicated with our initial response, for many mass market clients the issues they face will be how to get a good deal on insurance, protection and mortgages; to save more and reduce their debts. Their need for investment advice will be limited, but with auto enrolment it is to be hoped increasingly they will have some pension savings. If they are saving in pensions, the defaults of the scheme should mean that even without active engagement their "choice", while maybe not optimal, will not be bad. With pension freedom, they face far greater choice at retirement now. So the challenge in our view is

[2] ONS 2015 Economic Well-being
[3] ONS 2010 Income and Wealth Report
[4] ONS 2014 Quarterly National Accounts
[5] Bank of England, The Financial position of British households, 2013
[6] Unbiased and Standard Life: The Value of Advice Report 2012
[7] Citizens Advice: The Four Advice Gaps (October 2015)
[8] Citizens Advice: The affordable advice gap (October 2015)

around financial planning and investment advice at retirement for those with lower asset levels.

15. In the last ten years, financial advisers have increasingly focused on higher net worth individuals, a trend exacerbated by the Retail Distribution Review (RDR). Whilst advice is readily accessible for general insurance, mortgages and protection, this is not the case for holistic financial planning and investment advice for those with lower asset levels. An NMG survey[9] shows that 80% of IFA clients have more than £50,000 worth of non-pension investment assets. Whilst there is evidence that advice solutions for different segments (even in the region of around £30k) are offered by some advice firms, 60% of advisers have also turned away potential clients because it was uneconomical to the client based on their needs or it was unprofitable to the firm.

16. Citizens Advice research shows that consumers with medium sized pots can access financial advice: 80% of financial advisers on the Money Advice Service's retirement adviser directory would take on a client with £61,000 in pension savings.[10] The same research calculated that it costs on average £1,490 to take financial advice on a pot of that size. This is the same amount as an average monthly income. The YouGov survey found that 47% of people would be willing to pay for such advice, however only 2% were willing to pay £1,000 or more. By contrast 16% would be willing to pay between £200 and £999 for advice.

17. This research indicates that there is a portion of consumers with small to medium sized pension pots (in the region of £30-60k) who would pay for financial advice, if it were cheaper. The key challenge is demonstrating value for such clients. Consumers tend to seek advice for higher value investments or when more complex decisions have to be taken. For these small to medium pots the cost/benefit equation becomes very relevant and the higher the cost of delivery of advice, the greater the challenge to demonstrate it's worth.

<u>Solutions</u>

18. Lowering the cost of advice will improve access. It would help address the 'value for money' issue and would make seeking financial advice more appealing to a wider number of consumers. For this reason, we believe that reducing the costs of advice firms, as set out in our initial response, is a fundamental step in tackling the problem. We recognise however, that individual bespoke financial advice will inevitably always involve a certain level of costs, placing it out of reach for a section of consumers with more modest income and asset levels, but who have capacity to pay. In order to extend the provision of advice to this group, it is necessary to find a 'middle ground'. At the moment, it is possible to obtain free, but basic guidance (from MAS and Pension Wise) or costly full personalised advice. We believe a form of simplified advice could address this group – a simpler process in conjunction with a limited range of products should be close to suitable for anyone.

Reduce the cost of advice

19. In our initial response to the Call for Input, we stated that the cost associated with providing advice is a significant aspect of the 'advice gap'. A driving factor for the current focus on ever higher net worth individuals has been the rising costs of advice firms, so part of the solution must be to reduce the cost of giving advice. In our initial response we focused on the issue of liabilities faced by financial advisers and the costs this involves

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[9] NMG Financial Adviser Census 2015
[10] Citizens Advice: The affordable advice gap (October 2015)

and on the cost of regulation. In particular a barrier to a thriving and accessible advice sector is the lack of a ‘longstop’ which means that possible claims can hang over advisers indefinitely; the uncertainty and systemic problems relating to the Financial Ombudsman Service (FOS); the escalating Financial Services Compensation Scheme (FSCS) levies.

The Long-stop

20. APFA have been campaigning for a 15 year longstop for the advice profession. At the moment, the cost of advice is driven by the need to manage future liabilities and having an open-ended liability significantly increases the uncertainty and ability of firms to model and manage that risk. There has to be a balance between consumer protection and unlimited liabilities for firms. The uncertainty around liability not only increases the cost of advice for consumers, but also inhibits the development of simplified advice models and encourages the growth of non-advised models which offer less consumer protection. At the review team’s recent round table on the economics of advice, some larger financial services firms referred to the risks of bringing open ended liabilities onto their balance sheets as a factor in considering the merits of entering the advice market. Firms are unwilling to take on smaller clients, as the potential risks outweigh the benefits, making it uneconomic to service such clients. Professional Indemnity Insurance (PII) is affected. Many insurance firms are not willing to provide cover for financial advisers; those that do, are able to charge inflated prices and high self-insured excesses. It has been estimated that the PII cost of unlimited liability represents about 5% of PII costs.

21. In addition, lack of a long-stop acts as a major barrier to investment with the consequence that firms remain small and fragmented and unable to become more efficient and cost-effective by, for example, introducing more stream-lined services and economies of scale.

22. Without investment and innovation in the advice market, a large number of consumers will remain unable to access affordable advice. The Limitation Act 1980, as amended by the Latent Damage Act 1986, provides every UK citizen with an end date after which no legal action can be brought in negligence. Parliament decided that 15 years was the right balance between consumer protection and the duties of firms. This should also apply to a dispute resolution service that is providing a free alternative to consumers. APFA’s submission on the need for a longstop is attached at annex 1

FOS

23. The advice sector needs to have greater confidence in the way FOS handles complaints. There are concerns relating to the lack of clarity as to processes and procedures, inconsistency of decisions, lack of training of adjudicators and a bias towards complainants. Firms structure their business in order to manage liabilities rather than being open to more innovative ways of providing advice. Reform of FOS is necessary to ensure that it is a fair process that follows legal principles. It should be impartial and fair at every stage, including having an independent appeal procedure. Our suggested way forward is outlined in 35-36 below.

FSCS Levies

24. The ever-increasing FSCS levies are detrimental to consumers as they ultimately bear the costs. The unpredictability of the levy puts pressure on firms’ finances and has the knock on effect of reducing the public’s ability to source financial advice. It diverts resources from investing in expansion and recruitment, militating against a thriving and growing advice sector which is necessary for it to be accessible to a wider audience. The total FSCS levies for the advisers for 2015/16 were £216 million, compared to retained profits of £171 million for last year. The impact on firms is clear. Levies have increased to an unsustainable level and the impact on the sector means that there is the

need for a fundamental change to the system. We believe a product and service-based levy would be the most equitable way to fund a compensation system as it does not penalise innocent firms, allows financial stability and also drives better outcomes for consumers. Such a levy would fund the FSCS by setting a small surcharge for different product categories (including advice), with a levy attached to the income from the transaction and sale of a product, added to its price and paid for by the client. These could be uniform for simplicity or higher levies could be charged to unregulated or higher risk products. This would be neutral for a firm's finances in the same way IPT or VAT flows through. Being transparent about the cost of FSCS protection to consumers would raise the profile of FSCS levies with the public and make them much more aware of the risks that they were taking. An element of prefunding would be necessary, so that a surplus could be built up. This would also ensure that the firms at fault would not escape scot free, creating a fairer system and providing greater control and certainty over costs for firms.

25. We also believe that the scope of compensation should be limited to certain products, through the creation of a 'whitelist' of products which are compensable together with caps on maximum compensation levels. At the moment, consumers are compensated for non-regulated products because the advice is regulated. An unregulated product should not be part of a regulatory body's remit. We don't believe there should be compensation for people taking extreme risks. It encourages imprudent investment decisions. They should be made aware of the lack of protection and only those with enough wealth to bear the loss and experience in investing should be allowed to proceed under strict criteria. Such products should be banned from promotion or sale to retail consumers. This would have the consequence of improving consumer protection, lowering the overall costs of adviser firms and so the cost of advice to consumers, increasing accessibility of financial advice to a wider market.

26. Prevention is better than redress. The size of the compensation bill is a measure of what has gone wrong in firms the FCA oversee. The FCA needs to improve the effectiveness of supervision. Early, targeted and effective action on their part would help reduce the size of the compensation bill. We need greater focus on what is going wrong for consumers and action taken on preventing it happening again, including the banning of products and early action against firms promoting such products. The size of the FSCS levies should be used as a performance indicator of the effectiveness of the FCA supervision.

    APFA's position paper on the need for FSCS funding reform is attached at annex 2 .

Regulatory Costs

27. APFA have recently conducted a 'Cost of Regulation' survey in order to have up-to-date data on this matter. This shows that the direct and indirect cost of regulation makes up 12% of a firm's costs and by inference 12% of the price of advice. There are various other needless requirements that incrementally add up and increase the cost of providing advice. For example, there is a £300 fee for consumer credit permission for giving debt advice. Advisers continue to pay consumer credit fees even though their activity in the consumer credit market is negligible. Advisers do not offer credit or provide debt counselling as a service, so we therefore believe that the FCA should re-examine the boundaries for needing a consumer credit permission and clarify the requirements on those genuinely undertaking the activity. The increasing level of fees that adviser firms have to pay, are inevitably passed on to consumers. There is the need for 'better regulation' and a thorough review of the Handbook to simplify and reduce barriers to entry.

28. In addition, the introduction of a longstop and reform of FOS and FSCS need to be addressed in order for any simplified advice model to be a viable proposition. At the moment, unlimited liabilities and uncertainty as to how FOS would treat such simplified models in the face of possible consumer complaints act as a major deterrent to investment and innovation.

Please see APFA's Initial Response to the FAMR here

A Simplified Advice Model

29. Bespoke advice will always entail a certain level of cost. In order to cater for a wider market, new advice models need to be created that can deliver cheaper options on a greater scale. In order to provide advice at a lower cost, the process must be scalable to realise economies of scale. Whilst such models may not be optimal and personalised, they should still provide good solutions for the consumers.

30. The advice landscape should consist of a hierarchy starting with free guidance and information, followed by a simplified advice model and then culminating in full personal advice. Consumers could access all these at different points and stages of their lives depending on their circumstances. At the moment, the middle option is unavailable to consumers.

31. A simplified advice model with clear guidance on the key elements of suitability could provide a solution. Advice would be framed in relation to a specific point or purpose and there would be a degree of caveat emptor. There needs to be a balance between consumer responsibility and consumer protection. At the moment, advisers are reluctant to offer a focused service, for example on ISA or pension switches, as they fear it being treated as a full advice service. This causes frustration for clients. In order to ensure that simplified advice is offered more widely to mainstream consumers, it could only work with a limited range of designated safer products that were suitable for a wide range of consumers. Simple ISA switches and Personal Pension Plans, for example, could be designed to meet the 'simplified' criteria. If products are generally suitable, there would be less need for a detailed fact find about the consumer's circumstances. It could focus on the characteristics that would make it unsuitable for an individual. FCA could set parameters for a simplified process. Advice could then be 'off the peg' rather than made to measure at a significantly reduced price. The needs of the great majority of people could be met by such a simplified, streamlined advice process and could expect good outcomes.

32. In order to be viable, such a simplified process would require a safe harbour. In the Call for input paper, a 'safe harbour' is defined as a 'regulatory provision which reduces or eliminates uncertainty and potential liability in certain circumstances or if certain conditions are met.' There are various options relating to what a safe harbour might be in respect of:
    - for certain low risk products;
      for example 'sandbox' for firms to test new products on consumers without regulatory backlash.
    - for a process: for example 'paraplanner plus' service for lower value clients – this would act like an initial triage. Clients go to receive initial unregulated guidance or basic advice without placing liability on the adviser.
    - Maximum investment amounts
    - For insistent clients

    Creating a safe harbour would limit liabilities for firms, but would also be beneficial for consumers who are currently unable to access advice because of the cost and who may be vulnerable to firms peddling scams or unregulated investments. If the limits and scope of the advice were explained and made clear, the consumer should not have recourse in relation to matters outside that scope. By restricting these products to mainstream retail investment areas, the consumer remains protected and advisers are able to offer simplified solutions, whilst retaining their independence where more complex solutions are needed.

Certainty and clarity on different types of advice

33. For a simplified model to work there must be clarification and distinct boundaries between 'full advice' and 'simplified advice'. The FCA published its guidance on the boundaries of retail investment advice (FG 15/1 – Retail Investment Advice: clarifying the boundaries and exploring the barriers to market development) in January 2015. The FCA recognised that clarity was necessary because it felt that uncertainty may be preventing firms from developing low cost products or services. Yet in defining its threshold for advice and specifically simplified or focused advice, the FCA stated that processes involving a limited selection of relevant products would still fall under the same requirements as full advice. The paper stated 'We do not believe that relaxing the requirements for individuals who give simplified advice is in the best interests of the customer'. We do not believe in relaxing the suitability requirements either, but we believe that suitability can be delivered in other ways and that whether a product is suitable or not depends greatly on what that product is.

34. In our view, the FCA guidance failed to achieve the necessary clarity relating to the requirements that need to be fulfilled for a personal recommendation to be made. S.3.15 of FG 15/1 states that 'a personal recommendation comprises three main elements: 1) the recommendation is made to a person, in their capacity as an investor; 2) the recommendation must be presented as suitable for the person to whom it is made; 3) the recommendation must relate to a particular product.' It follows that if any element is missing, then it is not advice. The guidance should be clear in this respect, for example, stating that if there is no product it cannot be advice. However, the guidance leaves much to ambiguities about 'context' and how the consumer feels they have been advised (e.g. paras 3.10, 3.12, 3.23/24). While we agree that conditions can be met indirectly, e.g. we think it is hard for a firm that offers a draw down product to give generic guidance on draw down products because there will be an implication about the merits of their product, but criteria for any definition must be objective. They cannot be determined by what is in a consumer's mind. There needs to be clarity in respect of the definition of investment advice and that it relies on objective criteria.

Reform of the Financial Ombudsman Service (FOS)

35. Any simplified advice solution would require reform of FOS. If advice firms knew the extent of their potential liability, they would have more confidence to develop such simplified advice models. There therefore needs to be certainty as to FOS's approach regarding simplified processes. At the moment, advice firms are afraid of being judged as providing a different service, i.e. if they are offering a simplified service, being judged as offering a full advice service.

36. There is a simple solution. This could be addressed by providing a properly independent appeals process to a body that independent of FOS. At present a decision is made by an adjudicator, with a right to appeal the decision to an ombudsman. We believe there is a problem in the close working of ombudsmen and adjudicators that is hard to mitigate in terms of not allowing it to colour judgments. The FOS says: "trust us, we do all we can to prevent and manage potential conflicts of interest". However, it is important for there to be no perception of bias and separation provides more effective scrutiny of decisions. An appeal to a wholly separate body is the more conventional approach. The FCA itself

separate appeals in their enforcement procedures with the Regulatory Decisions Committee and Upper Tribunal.

At retirement advice

37. We believe that the simplified option could help with the specific issue of financial advice at retirement where people have small pots. However, a further option is to provide advice at the workplace with, for example, advisers' surgeries. Some firms have already come up with a viable model. The employer only needs to provide a room and time off (an hour) for staff. The employer then sends in an adviser who conducts a seminar and then offers appointments 1-2-1. This is a small cost to an employer, whilst opening up the availability of advice to a large number of employees. The possible downside is that this system requires interest and motivation on the part of employees, which may be lacking. However, many people are prompted to seek advice by life events, so it may just be a matter of time before most employees will have the nudge they need to seek help. This type of set-up would at least make advice more readily accessible.

The 'free advice' gap

38. According to Citizens Advice, there is a widespread lack of financial capability. This is coupled with a large number of people who are unwilling to pay for advice (55%) and an equally large number of people who are not in a position to pay for advice (49% of households have net financial wealth of less than £5,000). The consumer falling into this part of the 'advice gap' can be catered for through public financial guidance, such as MAS and Pension Wise.

The 'awareness' gap

39. This gap relates to people who do not even know advice is available or how to get it. The Citizens Advice research[11] indicates that there are a large number of consumers who don't know where to get financial advice, who to get it from or even that it exists. There also seems to be the absence of a process of referral, pointing people in the right direction in order to get the right advice. Their research shows that up to 2 million people who don't currently pay for advice would be more likely to do so if it were easier to find and 8.5 million people would be more likely to pay for advice if they could get help choosing an adviser. Action should therefore be taken to publicise the benefits of advice so consumers may have confidence that what they are getting is good value for money. Guidance organisations such as MAS and Pension Wise should offer better information and referral about paid-for financial advice and provide assistance in choosing appropriate advisers.

[11] Citizens Advice : The four advice gaps (October 2015)

Reponses to the questions

Q1: Do people with protected characteristics under the Equalities Act 2010, or any consumers in vulnerable circumstances, have particular need for financial advice or difficulty finding and obtaining that advice?

We do not have a view on this point.

Q2: Do you have any thoughts on how different forms of financial advice could be categorised and described?

Most ordinary people do not know the difference between 'guidance' and 'advice' or 'simplified advice' and 'independent advice'. Anything the government, regulator or financial services firms do, won't change that and we shouldn't seek to.

The government, regulator and industry should use any regulatory terms of art correctly. It would help the debate if, when discussing policy options, people are clear when they use "financial advice" to denote generic financial planning and when they mean "investment advice". Many in the mass market with few or little savings will need the former but not the latter.

Q3: What comments do you have on consumer demand for professional financial advice?

See s.12-17 above.

Reducing the cost of providing advice and addressing the 'value for money' issue would encourage a larger number of people to seek professional financial advice.

Education also has a valuable role to play. There is a general lack of awareness of the benefits of good financial advice. Increasing financial capability through schools, enhancing people's understanding of their financial needs and publicising the value of financial advice would also go some way to increasing the public's engagement.

Stimulating interest in people's finances is key. They need to be motivated and confident in managing their money. Routes to talking to people about money, such as the workplace (s 37), should encourage them to think about money. When they think about money and managing their finances, they will be more likely to think about how and where to get help. MAS should experiment with engaging groups in civil society to talk about money – it may work in cooperation with volunteers from the financial services sector delivering a pre-approved talk covering a range of basic topics and stimulating interest. There should be role for consumer champions too. This is what the Financial Capability strategy is aimed at doing.

Q.4: Do you have any comments or evidence on the level of demand for advice from sources other than professional financial advisers?

See s.11 and s.38-39 above.

Q5: Do you have any comments or evidence on the types of financial needs for which consumers may seek advice?

There are around 22,000 financial advisers. NMG Q2 Financial Adviser Census says that on average advisers have 136 active and 92 "reactive" clients. That would suggest that 3 million people are currently clients of a financial adviser and that another 2 million have sought some advice in the not too distant past. We would expect active clients to have sought holistic planning and investment advice.

We would expect that BIBA and AMI would be able to provide data on those accessing general insurance and mortgage needs. Many will seek help from public free sources on the internet, including MAS and Pension Wise.

Q6: Is the FCA Consumer Spotlight segmentation model useful for exploring consumers' advice needs?

Q7: Do you have any observation on the segments and whether any should be the subject of particular focus in the Review?

Q8: Do you have any comments or evidence on the impact that consumer wealth and income has on demand for advice?

Consumers tend to seek advice for higher value investments or when more complex decisions have to be taken. As set out in s.17 above, value for money is the key motivating factor. Obviously, the higher the cost of delivery and the price of advice, the greater the challenge. There is a minimum cost threshold in delivering advice whatever the level of the sums involved, yet the value equation is different for those with higher levels of assets. An NMG (2015) survey, conducted for APFA, shows that increasingly advisers have had to turn away potential clients as the cost of providing the advice would not make it economic for the client. In the 12 months to January 2015, over 60% of advisers turned away potential clients, either because it was uneconomical to the client based on their needs (42%) or it was unprofitable to the firm (29%).

Q9: Do you have any comments or evidence on why consumers do not seek advice?

There is a significant lack of knowledge amongst consumers relating to the provision and benefits of financial advice. There also seems to be the absence of a process of referral, pointing people in the right direction to access advice. Action should therefore be taken to publicise the benefits of advice so consumers may have confidence that what they are getting is good value for money. Guidance organisations such as MAS and Pension Wise should offer better information and referral about paid-for financial advice and provide assistance in choosing appropriate advisers.

The cost of advice is also a significant factor coupled with the recurring theme of value for money. If the cost of advice were lowered, the cost/benefit threshold would be easier to satisfy for a considerably larger section of the market.

Q10: Do you have any information about the supply of financial advice that we should take into account in our Review?

In recent years, particularly following the Retail Distribution Review (RDR), the number of financial advisers in the UK fell by almost 15%. According to the FCA, in 2009 there were 27,000 financial advisers, but this fell to 23,500 by 2014. The costs of running an advice firm have risen since the RDR was implemented[12]. A significant percentage of firms' costs arise directly from regulation, particularly for smaller firms and is one of their greatest challenges. This is not just about the fees and levies firms have to pay but also the indirect costs such as regulatory reporting and ensuring compliance with the rules. Research by NMG for APFA[13] found that 83% of advisers have capacity to take on additional clients seeking pension decumulation advice following the pension reforms. However, whilst some firms are still open to taking on clients at any wealth level, unfortunately others are constrained by cost issues and are unable to advise on pots below a certain level. Survey results show that whilst advisers have capacity to take on new clients, they are now more likely to decline to take on a new client, or cease acting for an existing one, if the relationship is not

[12] Europe Economics: Retail Distribution Review Post Implementation Review (2014)
[13] NMG Financial Adviser Census for APFA, The "guidance guarantee", May 2014

commercially viable. Therefore the evidence suggests that whilst there may be sufficient capacity within the market, not all consumers who want face-to-face advice may be able to access it, as advisers decide it is not economic to take them on. Those consumers with smaller amounts to invest are likely to be the most affected.

Q11: Do you have any comments or evidence about the recent shift away from sales based on professional advice and the reasons for this shift?

Since RDR there has been a significant increase in non-advised product sales. Between 2006 and 2012 non-advised sales constituted around 30-35% of sales. Since 2012 this proportion has risen sharply to 67%.[14] This trend is likely to have a variety of causes, though the increase in regulatory and other costs in the provision of advice coupled with the costs of compensating consumers (through FOS or FSCS levies) is a major factor. In addition, the transparency of the costs of advice, following RDR, where fees are more visible than commission, has added to this trend. We believe that this will adversely affect consumer decision making, with them unduly opting for what appears to be a free non-advised service. Financial advice needs to be a level playing field in comparison to execution only services.

Q12: Do you have any comments or evidence about the role of new and emerging technology in delivering advice?

Many clients value the personalised face-to-face advice for financial planning where more complex analysis and human engagement and empathy are required. However, automated solutions are emerging and may help advisers be more productive. Robo-advice can be seen as a complementary tool to proper full face-to-face advice. It could be a way to bridge the affordability and accessibility gap. The two forms of advice do not have to be mutually exclusive. Robo-advice could cater for clients who otherwise would be uneconomical to serve and also allows firms to deal with volumes well above their capacity.

The automated investment solutions we have seen are good at addressing a narrow and closed question, such as: “how should I invest my ISA allowance?” or “what is a good investment strategy for my pension?”. At this stage they are unable to help with more open ended questions like “what do I want to do with in retirement?” or “how much should I save?”. We expect them to be able to gauge this better with time. In that sense, they can provide investment advice but not financial planning. We believe they will be less effective at providing the “discipline” incentive of ensuring that money is saved rather than spent.

Q13: Do you have any comments on how we look at the economics of supplying advice?

Q14: Do you have any comments on the different ways that firms do or could cover the cost of giving advice (through revenue generation or other means)? Do you have any evidence on the nature and levels of costs and revenues associated with different advice models?

Q15: Which consumer segments are economic to serve given the cost of supplying advice?

APFA’s ‘Cost of Regulation (2014)’ survey[15] showed that advisers’ costs for the FCA, FOS, FSCS, Money Advice Service and Pension Wise, together with associated indirect costs amounted to £460 million in 2013. The FCA’s annual levy was raised by 10% for 2015/16. The regulator said this increase was down to an 8.5% rise in FCA staff and IT costs and an extra £4.7 million levy to pay for Pension Wise.

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[14] The Financial Adviser Market: In Numbers (APFA) (2014)
[15] APFA: The Cost of Regulation (2013)

APFA have recently conducted a 'Cost of Regulation' survey in order to have up-to-date data on this matter. This shows that the direct and indirect cost of regulation makes up 12% of a firm's costs and by inference 12% of the price of advice.

The fees and the levies are obviously the more visible and ascertainable costs, yet the real cost of regulation is ensuring that 'you don't get it wrong'. The uncertainty surrounding liabilities means that advisers are driven to using lengthy disclosure documents with an eye to future risk mitigation. The sheer volume of different disclosure requirements together with the fear of falling foul of the rules inhibits investment and innovation in the market. It means firms structure their business in order to manage liabilities rather than being open to more innovative ways of providing advice. Simplified or focused advice models would clearly cater for a wider market, but the development of such services is inhibited by concerns around how FOS would treat them in the case of consumer complaints.

The uncertainties around liabilities, including the lack of a long-stop, are a major barrier to investment. The consequence of this is that firms remain small and fragmented and therefore are unable to become more efficient and cost-effective by, for example, introducing more stream-lined services and economies of scale. Without investment and innovation in the advice market, a large number of consumers will remain unable to access affordable advice.

Regarding consumer segments that are economic to serve, those seeking advice on general insurance, mortgages and protection will find it readily available. Those seeking advice on investments or pensions instead are increasingly falling into two groups: there are those who can afford to pay for advice, and are willing to do so, and who have sufficient assets or income to make them an economic proposition for advisers. Then, there is a group of consumers who may want advice, but for who it is not economic given the amount they have available to invest. This group would consist of consumers with small to medium pots of around £30-60k.

See also APFA's Initial Response to the Call for Input here

Q16: Do you have any comments on the barriers faced by firms providing advice?

APFA's Initial Response to the Call for In-put sets out in detail the barriers faced by firms in providing advice. In essence these amount to the liabilities and uncertainties that attach to investment advice: the lack of a 'longstop; the uncertainty and systemic problems with FOS; the ever-increasing and unpredictable FSCS levies; the impact of professional indemnity insurance; the complexity of the handbook. For investment advice in particular, the cost of getting it wrong are significant and ultimately these costs are borne by clients, pushing the provision of financial advice out of reach of a large number of consumers.

See APFA's Initial Response to the Call for Input here

Q17: What do you understand to be an advice gap?

Q18: Where do you consider there to be advice gaps?

Q19: Do you have any evidence to support the existence of these gaps?

Q21: Which advice gaps are most important for the Review to address?

See s. 10-17 above. The Review should therefore concentrate in particular on investment advice at retirement for those with lower asset levels.

Q22: Do you agree we should focus our initial work on advice in relation to investing, saving into a pension and taking an income in retirement?

We agree that the Review should particularly focus on investing and use of pension assets through retirement (sadly many don't have sufficient to meaningfully talk of retirement income). We believe that saving into a pension is probably covered through auto enrolment, but there is a need to raise basic saving rates above 8% for auto enrolment.

Q23: Do you agree we should focus our initial work on consumers with some money but without significant wealth? What exact income/wealth thresholds should we use to determine which consumers we will focus on?

We agree that the focus of the Review should on consumers with lower asset levels, for example those with small to medium pension pots (between £15-45k) and those with low or no savings to get them to start saving.

Q24: Are there aspects of the current regulatory framework that could be simplified so that it is better understood and achieves its objectives in a more proportionate manner?

As set out in s.33-34 above, there should be clear definitions between the different types of advice. In particular the boundaries between 'simplified' advice and 'full' advice need to be clear and unambiguous. This would pave the way for a simplified advice model with clear guidance on the key elements of suitability.

The role of the Financial Ombudsman Service needs to be reformed. See APFA's Initial Response to the Call for Input and the s.23, 35-36 above.

The FSCS levies and the way they are raised are also significant factors which put pressure on firms' finances and hinder firms' ability to innovate and create more stream-lined services. See APFA's Position Paper on FSCS levies (Annex 2).

There is the need for 'better regulation', which would reduce regulatory costs for firms. For example:

- reducing reporting requirements, which take up a considerable amount of a firm's time and resources;
- freezing the regulatory bodies' budgets in nominal terms for three years;
- simplifying the FCA Handbook, by reducing its length by a third over three years.
- bringing back the regulatory fines to reduce the cost of regulation;
- clarifying consumer credit boundary so advisers don't need to have the permission on a precautionary basis.

In the past year FCA has added a number of small burdens that we see adding little in terms of consumer protection. The revised complaint handling requirements (aimed at addressing failings in handling PPI complaints); changes to the approved persons regime (aimed at banks and extended to all); new money laundering reporting requirements; and potential gold plating MIFID II to record all telephone calls. None in themselves of enormous consequence, but the continual adding of requirements adds to the regulatory burden and complexity. More challenge is needed in internal processes. Every requirement in the Handbook needs questioning as to whether it is essential or makes for regulatory neatness or "would be nice to have".

Q25: Are there aspects of EU legislation and its implementation in the UK that could potentially be revised to enable the UK advice market to work better?

Q26: **What can be learned from previous initiatives to improve consumer engagement with financial services?**

At an EU level the "suitability" requirement in MiFID means that firms face a challenge of trying to offer a bespoke service to a mass market. When each offering has to be tailored it is not easy to do cheaply. FCA needs to endorse a process that builds suitability into it that can be delivered more widely or the cost of delivery will remain high.

There have been previous initiatives which attempted to introduce straightforward products at low prices, supported by simplified advice requirements. However these were not particularly successful. These initiatives were not adopted by firms due to the lack of clarity between the boundaries of different types of advice. Simplified models would clearly cater for a wider market, but the development of such services is inhibited by concerns of how FOS would treat them in case of consumer complaints. This could be addressed by an appeal process to a body independent of FOS.

See the s.35-36 above.

Q27: Are there any approaches to the regulation of advice in other jurisdictions from which we could learn?

In other EU states, it is rare for retail savings products to be sold under MIFID. MiFID investments tend to be for high net worth investors. The IMD is the more common framework for insurance savings products. We do not believe the MiFID model is appropriate framework for mass market savings products being distributed cheaply.

Q28: What steps can be taken to address behavioural biases that limit consumer engagement without face-to-face advice?

Q29: To what extent might the different types of safe harbour described above help address the advice gap through increased incentive to supply advice?

Firms are not adopting simplified advice models principally because of concerns of how FOS would treat them in case of consumer complaints. This problem would be addressed in part by the creation of a safe harbour, but firms would need to have the confidence that FOS would follow. An independent appeal from the FOS should help restore confidence in receiving a fair hearing. See s.23, 35-36 above.

Q30: Which areas of the regulatory regime would benefit most from a safe harbour and what liabilities would a safe harbour address?

See s.31-32 above.

Q31: What steps could be taken to ensure that a safe harbour includes an appropriate level of consumer protection?

As set out in s.29-32 above, a safe harbour would apply only to a simplified advice model and it could be limited to certain low-risk investment products or/and have maximum investment amounts. It would be beneficial for consumers who are currently unable to access advice because of the cost and who may be vulnerable to firms peddling scams or unregulated investments. It would foster consumer responsibility. The consumer would still have appropriate protection if the limits and scope of the advice were explained and made clear.

Q32: Do you have any evidence that absence of a longstop is leading to an advice gap?

Q33: Do you have evidence that the absence of a longstop has led to a competition problem in the advice market e.g. is this leading to barriers to entry and exit for advisory firms?

Q34: Do you have any comments about the benefits to consumers of redress for long-term advice?

Q35: Do you have any comments or suggestions for an alternative approach in order to achieve an appropriate level of protection for consumers?

See the section on the 'Longstop' in APFA's Initial Response.

See APFA's Position Statement on the Longstop, dated February 2015 Annex1.

Q36: Do you have any comments on the extent to which firms are able to provide consistent automated advice at low cost? Are you aware of any examples of this, either in the UK or other jurisdictions?

The automated investment solutions we have seen are good at addressing a narrow and closed question, such as: "how should I invest my ISA allowance?" or "what is a good investment strategy for my pension?". At this stage they are unable to help with more open ended questions like "what do I want to do with in retirement?" or "how much should I save?". We expect them to be able to gauge this better with time. In that sense, they can provide investment advice but not financial planning. We believe they will be less effective at providing the "discipline" incentive of ensuring that money is saved rather than spent.

Q37: What steps could we take to address any barriers to digital innovation and aid the development of automated advice models?

Q38: What do you consider to be the main consumer considerations relating to automated advice?

See also APFA's response to the FCA call for input: regulatory barriers to innovation in digital and mobile solutions here .

Q39: What are the main options to address the advice gaps you have identified?

With regard to the 'affordable' advice gap, the primary option would be to reduce the cost of providing advice. In order to do so, the problem of liabilities faced by financial advice firms and the associated costs has to be addressed together with a reduction in the cost of regulation. This involves the introduction of a longstop, reform of FOS and reform of the FSCS levies. See APFA's Initial Response to FAMR.

We also accept however that reduction of costs addresses only part of the problem and that reform of the regulatory framework relating to suitability requirements and provision of simplified advice, coupled with a 'safe harbour' and governed by a set of simpler guidelines may be a solution to developing cheaper models of advice for a greater number of consumers. See s.29-36 above.

With regard to the 'free' advice gap, the need for financial guidance can be catered for through public financial guidance such as MAS and Pension Wise or through workplace schemes.

With regard to the 'awareness' gap, greater education is required. It is necessary to publicise the benefits of advice so consumers may have confidence that what they are getting is good value for money. Guidance organisations such as MAS and Pension Wise should offer better information and referral about paid-for financial advice and provide assistance in choosing appropriate advisers.

Q40: What steps should we take to ensure that competition in the advice markets and related financial services markets is not distorted and works to deliver good consumer outcomes as a result of any proposed changes?

Financial advice needs to be a level playing field in comparison to execution only services that often have the appearance of being free. We believe that this will adversely affect consumer decision making, with them unduly opting for what appears to be a free non-advised service.

Q41: What steps should we take to ensure that the quality and standard of advice is appropriate as a result of any proposed changes?

The FCA and a competitive market.

From:
Sent: 09 November 2015 08:23
To: FAMRSecretariat
Subject: Aspire
Attachments: 20151108165241122.pdf

Q1: Do people with protected characteristics under the Equalities Act 2010……………………………….
A: Personally I do not think they do find it difficult to get advice.
Of course it may prove challenging to get life cover for a gender reassignee to get life cover (not that I have ever had the opportunity to try) or if an office does not have disability access it could be difficult to get into the office but I believe any adviser would go out of their way to help any of the particular class of person you are discussing in this group provided they wanted the business.

Q2 Do you have any thoughts on how different forms……………………
This is difficult to answer, I don't believe that IFA's give guidance when advising an individual, in a group presentation it may be, i.e. you need to fund your pension, on a one to one basis it is advice, i.e. if you don't put away so much per month you will struggle in later years….

I wouldn't call what you call focused advise but I would call it "specific" advice. i.e. you only wanted to discuss your pension with me. Of course we know specific advice soon becomes general advice, its hard to stick to one area as other questions always appear

There is no such thing as free advice, pension wise and mas and all these quango's are paid for by someone and that should be highlighted when advertising the service

Q3: what comments do you have on consumer demand……………………..
I agree with the research, the FCA concern might be that even £50,000 is too small an investment for many IFA's to take on considering the potential liability for advice

Q4: I believe many consumers are quite capable of buying equity ISA's, term assurance, personal pensions online and without advice, however I know that they will be unaware of Trust issues, unaware of ISA allowances, funding limits, carry forward, etc. and all the little things that may trip them up in later years.
In any event if cost savings is their main objective then there are channels for them to purchase.

Q5: Do you have any comments or evidence……………………..
Our experience tells us that once an individual works with us on particular aspect of their financial planning and then trusts us we will inevitably look at all aspects of their needs from basic cash ISA's to IHT planning and ensuring they have an up to date Will.

Q6: Is the FCA spotlight…………………………..
I'm not sure, the breakdowns are fascinating, but the IFA's will target the obvious sectors, certain segments couldn't afford IFA's and IFA's couldn't afford to service them anyway

Q7: Do you have any observations on the segments……………
Now that commission is banned how can it be possible to serve starting out, living for now, hard pressed and striving and supporting, these are the people that I think need us most but can least afford to pay us, we act as their "conscience", encouraging them to save, buy protection, invest in pensions. They can least afford to write us a cheque and even if they can, it is never normally enough to cover our time for what they consider they ought to pay for advise

Q8 do you have any comments……
No

Q9 comments or evidence on why consumers do not…………………..
Nicely summed up, I understand all the segments but this is the power of being referred

Q10:Q11:12
Financial advice is supplied in a number of ways, the old fashioned face to face which is the most comfortable but the most expensive, skype type communication and robo type advisers, its just too expensive to supply advice at the bottom end. I'm not convinced consumers in enough numbers what robo advice

Q13: comments on how we look at………………………
Unless you are willing to cross subsidise bottom end clients (which I believe is not allowed) how can you squeeze blood out of a stone

Q14: comments on the different ways…………………
I have no evidence on the different models

Q15: which consumer segments are economic
Maybe stretched but resourceful, busy achievers, affluent and ambitious, mature and savvy, retired with resources

Q16: barriers facing firms
The unlimited annual FSCS levy is a scandal, it is unfair and immoral and if those in control i.e. FCA employees had the same unknown liability on their annual income they would change the rules. For may IFA firms this excess comes out of the pockets and take home pay of the principals. Its not like the banks where everyone gets paid and this fine is out of profits or shareholder dividends. The lack of long stop is also iniquitous

Q17: what is the advice gap
Not enough advisers to go round to all who need one, change from commission to fees and the high cost of being in business as an adviser has caused this "perfect storm"

Q18: to what extent does a lack of demand……………………..
I don't believe it's a lack of demand for an established adviser, it's a lack of time and resource, too many regulatory demands on an advisers time. (even this report Im doing on a Sunday afternoon-and more than 1 weekend afternoon)

Q19: 20: 21
See attachments
20: not that I can prove
21: starting out, living for now, hard pressed and retired on a budget especially when it comes to pension advise and the potential damage stripping out their whole pension pot or just drawing too much annually

Q22: where to focus initial work………..
Yes I agree but I think equity release should be included, its becoming a bigger and more important area for retirees

Q23: no comment but sounds reasonable

Q24: no comment, don't feel I know enough
Q25: same answer

Q26: what can be learned from……………………
If advisers cannot earn a living from being involved in a certain sector of the market either because the fees are too low or the liability is too great the sector will not be profitable and will fail.

Q27: No comment

Q28: what steps can be taken…………………………….
In my humble opinion unless the individual is already a client of the firm it is really hard to engage a client without some sort of face to face (live or maybe skype).

Q29: To what extent might different…………….
If an adviser knew that if he followed a rules based regulation to the letter which meant they could never be liable for a complaint then this could work and advice could be given. If there were any doubts why would an adviser get involved?

Q30: what areas of the regulatory regime…………………….
I believe pension provision and pension advice in the "at retirement" market

Q31: what steps could be taken………….
Specific rules based regulation that gave the adviser confidence that regardless of who said what in so many years hence forth they could never be liable

Q32: Do you have evidence that the absence…………
No I don't and I'm not sure there is

Q33: Do you have evidence
No I don't but no long stop is clearly unfair

Q34: Do you have comments……………………
No long stop clearly suits consumers but not advisers and if the lack of a long stop ultimately reduces the access to advice it may starts to affect consumers access to advice

Q35: Do you have any comments…………………………….
Why can't different products have different long stop end dates

Q36 and Q37:
I don't feel as if I know enough about auto advice, we don't offer this advice

Q38: what are the main consumer considerations…………….
Low cost advice

Q39: What are the main options to address…………………….
I don't really see what other types of advice can be given other than face to face, skype or tele advice and finally auto or robo advice.

Q40: what steps should we take…………………….
Make sure that whoever gives advice, IFA's, banks, SJP, etc. all have to offer advise within the same parameters

Q41: what steps should be taken……………………….
When considering making changes or when you see an area is not working for e.g. stakeholder pensions and JISA's talk to advisers, providers and the public in the big enough numbers to find out why an area is failing

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Financial Conduct Authority
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London E14 5HS

22 December 2015

Dear FAMR Secretariat

FCA – Financial Advice Market Review – response from ABCUL

We appreciate the opportunity to respond to this consultation. The Association of British Credit Unions Limited (ABCUL) is the main trade association for credit unions in England, Scotland and Wales. Out of the 329 credit unions which choose to be a member of a trade association, approximately 68% choose to be a member of ABCUL.

Credit unions are not-for-profit, financial co-operatives owned and controlled by their members. They provide safe savings and affordable loans. Some credit unions offer more sophisticated products such as current accounts, ISAs and mortgages.

At 30 June 2015, credit unions in Great Britain were providing financial services to 1,365,780 people, including 130,659 junior savers. The sector held more than £1.32 billion in assets with more than £720 million out on loan to members and £1.13 billion in deposits.[1]

Credit unions work to provide inclusive financial services has been valued by successive Governments. Credit unions' participation in the Growth Fund from 2006 – 2011 saw over 400,000 affordable loans made with funding from the Financial Inclusion Fund. Loans made under the fund saved recipients between £119 million and £135 million in interest payments that otherwise would have been made to high-cost lenders. The DWP has contracted ABCUL to lead a consortium of credit unions under the Credit Union Expansion Project, which will invest up to £38 million in the sector and aims to make significant steps towards sustainability.

Response to the consultation

Credit unions approach the subject of financial advice from the perspective of the needs of lower income consumers and a sector which, typically – apart from in the few cases where credit unions provide mortgages – does not currently engage in advised sales or the provision of financial advice more generally. However, credit unions are active in the fields of financial inclusion, financial education, budgeting support and the provision of generic money advice. As such, credit unions

[1] Figures from unaudited quarterly returns provided to the Prudential Regulation Authority

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do have a particular insight into the needs of particular sections of society and some of the gaps in the provision of advice that currently exist.

From consultation with our members, we would make the following points in response to the review:

- Lower income consumers have a need for financial support, generic money guidance and help with basic financial skills such as budgeting and dealing with debts. This is a key focus of the Money Advice Service and ABCUL will be responding to the parallel consultation on the provision of Public Finanical Guidance to this end. However, we would make the general point that the provision of this support is very patchy at present with agencies such as credit unions providing this generic support in an ad hoc and informal way and without a great deal of co-ordination or support from above.

- There is a growing element of regulatory compliance risk which is bearing down on the willingness of credit unions to provide these informal guidance and bugeting support services since the line between guidance and advice is not clear. Credit unions wish to be compliant and do not want to engage in advice activities for which they are not qualified or regulated and, while many cases are straightforward, in a significant proportion of cases credit unions are faced with difficult judgements about how far budgeting support can go before it becomes, for instance, debt advice or financial advice in respect of, for example, the optimal balance between building savings and paying down debts.

- A greater degree of regulatory certainty around the line between advice and guidance would be greatly beneficial to credit unions who are seeking to support their members on an informal and free-of-charge basis as part of their social mission and in fulfilling their statutory objectives of “promoting thrift and the wise use of money”.

- More generally, there is some anecdotal evidence of credit union members – who are typically, but by no means always, in receipt of a lower income – requiring regulated financial advice which currently credit unions are unable to provide. This is an area credit unions are likely to look to increasingly enter into both in order to diversify their services and increase revenue and to respond to genuine member needs as the availability of advice lessens due to heightened perceived regulatory risk and the perceived higher costs of advice post-RDR.

- A key challenge in developing a credit union advice proposition is the economics of developing a service which is viable for the credit union and the increased regulatory requirements around advice are a key consideration here in addition to concerns about regulatory liabilities. This may be an area in which collaboration between credit unions may assist and the sector is actively pursuing a number of collaborative efforts to address such scale challenges at present. However, greater regulatory clarity would also assist here as would consideration of lighter regulator requirements in areas of advice which might be considered lower risk.

- Feedback from member credit unions suggests that while it is certainly the case that lower income people have, by definition, less assets to manage and therefore less need for regulated advice, we are also keenly aware that the reduction in the availability of advice generally is affecting those with smaller portfolios primarily since they are less attractive to advisers and less able or willing to pay fees for finanicial advice.

We would be happy to provide any clarification or extra information that may be required.

Yours sincerely

M. Bland

Matt Bland
Policy Manager

Financial Advice Market Review (FAMR)
ABI response to the Call for Input

22 December 2015

About the Association of British Insurers

The Association of British Insurers (ABI) is the leading trade association for insurers and providers of long term savings. Our 250 members include most household names and specialist providers who contribute £12bn in taxes and manage investments of £1.8trillion.

Executive Summary

Advice is an essential feature of any healthy, functioning market and should ensure that consumers are supported in making informed and confident decisions, to achieve the outcome they want from the products and options they choose.[1] Where consumers have support to make informed choices, they are more likely to end up in a stronger, more resilient and secure financial position.

Whilst those who can afford it are generally well served by the current fee charging advice market, we believe there is evidence, detailed in this response, that not all consumers are currently able to access the advice they want or need. As highlighted in the Call for Input, this is particularly the case for those with some assets to invest, but who may not have significant wealth or income. This is a particular issue in relation to support when investing, saving into a pension and taking an income in retirement, in the new retirement market.

We also believe that improvements to advice provision could benefit consumers who are underestimating the impact that ill health and injury could have on their income, as well as those underestimating their longevity, and potential need for long-term care. Solutions should therefore support consumers considering their protection and social care needs too.

To ensure that consumers can access the benefit and value of advice, the solutions resulting from FAMR should help make fee charging forms of advice more affordable and attractive. We also consider that there is a need to expand access to information and guidance for those who do not, or cannot, take this route, but who need additional support to help them achieve the right outcome. Reflecting this, we believe that a packaged approach, focussing on a range of solutions, is needed.

[1] We refer to advice in its broadest sense, including information, guidance and fee charging advice in the same way as the Call for Input. Where we are referring to a specific type of advice we will clearly make a distinction.

The ABI's proposed package, which we build upon in the full response, is as follows:

Making advice easier to access

- Enable the output of a guaranteed guidance session to include production of a portable pension fact find that can be used with a fee charging advice provider.
- Review the tax regime for employers offering advice and support to employees.
- Review and reduce the categorisations and definitions used to describe advice, with the aim to make them more consumer friendly.

Making advice easier to provide

- Help advice providers better understand potential future liabilities by developing a 'complaints sandbox'. Many complaints relating to current sales, will not be received until many years later, so a hypothetical test case environment in which FOS can adjudicate and publish findings on potential future complaints now would benefit firms *and* consumers.
- Support, guide and ensure consistent application of regulatory standards for development of 'robo-advice' propositions, including continued support through Project Innovate.

Improving access to information

- Review and re-clarify the boundary of regulated advice against previous FCA guidance and forthcoming Markets in Financial Instruments Directive (MiFID) II requirements, to enable better support, potentially including guidance for customers that cannot, or will not, pay for fee charging advice.
- Continue to work together to drive forward the development of a pensions dashboard, with the objective of a single view of assets and entitlements.

Enhancing guidance landscape

- Integrate Pension Wise and The Pension Advisory Service (TPAS), with one central point of contact, with signposting towards guidance at age 50.
- Review how public bodies can leverage opportunities to signpost and nudge people towards accessing advice at critical junctures in a person's life.

We believe that implementation of the above proposals would help to improve consumer awareness and demand for advice, whilst supporting better availability of advice at a reduced cost. Further, customers that cannot pay will be better supported by provision of better information and availability of guidance.

To ensure that progress is made in delivering improvements across the advice landscape, we believe that the Government should come forward with clear, achievable milestones and implementation dates. These should be aligned with other initiatives including the Consultation on Public Financial Guidance and FCA activity, including its Consultation Paper 15/30.

(1) Overview

1. Do people with protected characteristics under the Equalities Act 2010, or any consumers in vulnerable circumstances, have particular needs for financial advice or difficulty finding and obtaining that advice?

1.1. The advice requirements and needs of vulnerable consumers should be fully accounted for as part of this Review. If, as suggested in question 22, the Review focuses specifically on investing, saving into a pension and taking an income at retirement, it should consider the vulnerabilities which consumers looking for support in these markets may have.

1.2. In the retirement income market, this could include age related physical or psychological health conditions, or people who are bereaved, which requires distinct, tailored and flexible approaches to advice. This means considering both the content and the channel by which advice is delivered. For example, face to face or telephone based advice may be more suitable than digital channels for these consumers.

1.3. An appropriate approach to advice for vulnerable consumers is also important due to the risk of exposure to scams and fraudulent activity. By improving accessibility to advice, we could help protect vulnerable consumers from potential targeting by investment scams and pensions liberation.

(2) What do consumers need and want from financial advice?

2. Do you have any thoughts on how different forms of financial advice could be categorised and described?

2.1. We agree that unclear and inconsistent terminology, definitions and the language associated with financial advice can be confusing and off-putting to consumers. It can also potentially contribute to poor decision making as a result of confusing one form of advice for another. As such, we recommend that the categories and definitions associated with advice are reviewed and simplified. We outline our recommendation for this in more detail in answer to question 39.

2.2. In February 2015, we commissioned Ideas42, a behavioural design and consulting firm, to undertake an assessment of the behavioural perspectives associated with retirement planning in the run up to Pension Freedom and Choice. The findings suggest that many consumers appear to interpret the term advice liberally, covering a range from full regulated advice from an Independent Financial Adviser (IFA), to recommendations from unregulated commentators or on online forums. This means consumers may not be getting the optimal levels of advice they need, in addition to not properly considering protection and redress factors when taking a decision. This could leave them open to scams or making investments which are unsuitable.[2]

2.3. The categorisation and description of advice, in reference to regulated advice, is complicated further by sub-types which include simplified, focussed, limited and basic advice. It is unlikely that the majority of consumers will appreciate from the label alone what differentiates these sub-types, although advisers are required to notify their clients what sub-type of advice they are giving. Despite this, it is unclear how helpful this explanation will be to customers, and whether the differentiation is sufficiently understood.

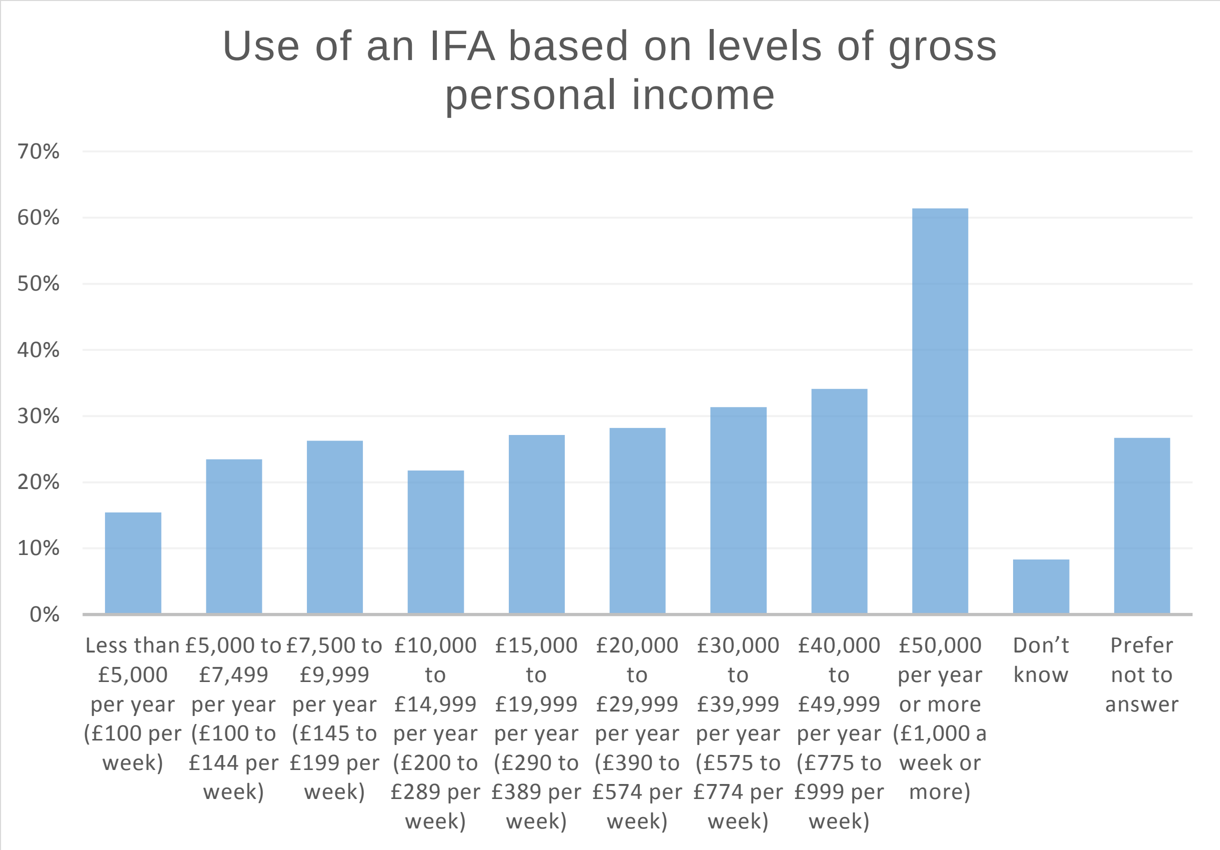
2.4. We have broader concerns about the language and terminology used to describe pensions and retirement income products. This is why we are undertaking work with a variety of stakeholders and our members to establish simpler, standardised language to help customers make the most of the Pension Freedom and Choice reforms. Where there may be overlap between this work and any initiatives to re-categorise advice, we would welcome support for consistency in approaches to ensure that people are exposed to the same, consumer friendly language and terminology.[3]

3. What comments do you have on consumer demand for professional financial advice?

3.1. We generally agree with the Call for Input that the complexity of a financial decision and the levels of investment, or value of an asset involved, will be the key drivers for consumer demand for forms of fee charging financial advice.

[2] ABI/Ideas42 (February 2015) 'Freedom and Choice in Pensions: A Behavioural Perspective', https://www.abi.org.uk/~/media/Files/Documents/Publications/Public/2015/Pensions/Freedom%20and%20Choice%20in%20Pensions%20A%20behavioural%20perspective.pdf

[3] ABI (June 2015) 'ABI Sets out Action Plan to help Customers get most from Pension Freedoms', https://www.abi.org.uk/News/News-releases/2015/06/ABI-sets-out-action-plan-to-help-customers-get-most-from-pension-freedoms



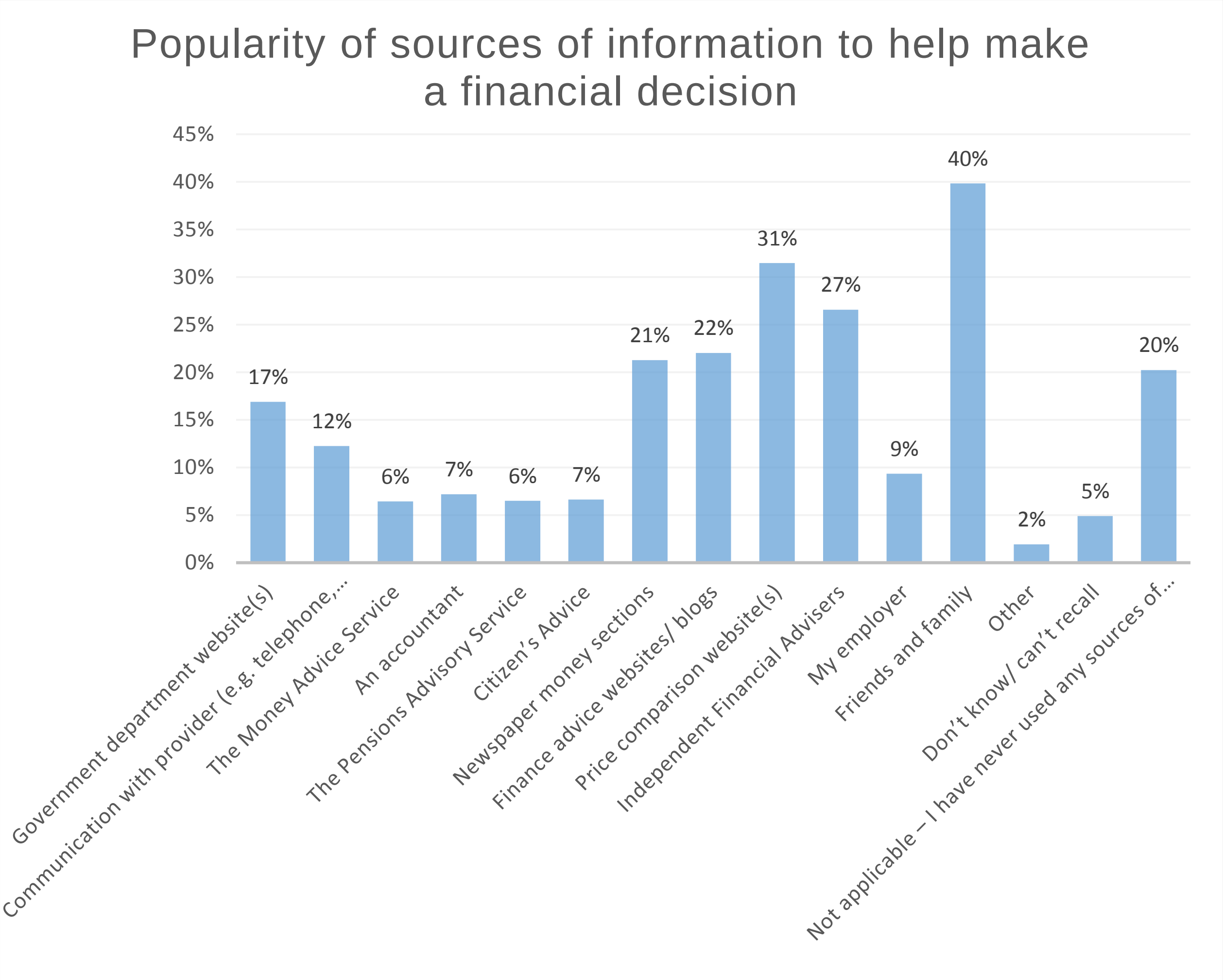
3.2. A YouGov survey undertaken in May 2014 helps paint a picture of the correlation between wealth profile and use of an IFA. The above chart shows levels of IFA use against levels of gross personal income, with those with higher gross personal income more likely to have used an IFA to help them make a financial decision.[4]

3.3. Demand for fee charging financial advice may also be driven by legislative or regulatory requirements to take advice. Two good examples include a mortgage transaction, which has to be completed on an advised basis, with certain narrow caveats allowing execution only, and the requirement to take advice for transfer or conversion of a pension where a safeguarded benefit exists and is valued over £30,000.

[4] ABI/YouGov Survey Data - total sample size was 2586 adults. Fieldwork was undertaken between 19 - 28 May 2014. The survey was carried out online. The figures have been weighted and are representative of all GB adults aged 18+. The question asked: ‘*From which, if any, of the following have you ever obtained any type of information, guidance or advice to help you make financial decisions?”*.
NB: This chart shows a percentage of respondents have used an IFA despite recording £5,000 or less gross personal income per week. This is likely because the question specifies “…*have you ever*…” meaning they may have accessed an IFA previously when their gross personal income was different.

4. **Do you have any comments or evidence on the demand for advice from sources other than professional financial advisers?**

4.1. Evidence suggests that consumers tend to approach a range of sources for advice when it comes to taking financial decisions, beyond that offered by an IFA. A YouGov survey undertaken in November 2014 asked respondents what sources of information they had ever used to help make financial decisions. The results shown below highlight friends and family, price comparison websites, IFAs and media sources as being the most popular. 20% of respondents, the sixth highest response rate, said that they have never used any sources of information to help them make financial decisions. This is a concern echoed in the Financial Capability Strategy for the UK which highlights some 8 million people being in difficulty with debt, but only 1 in 6 seeking help.[5]



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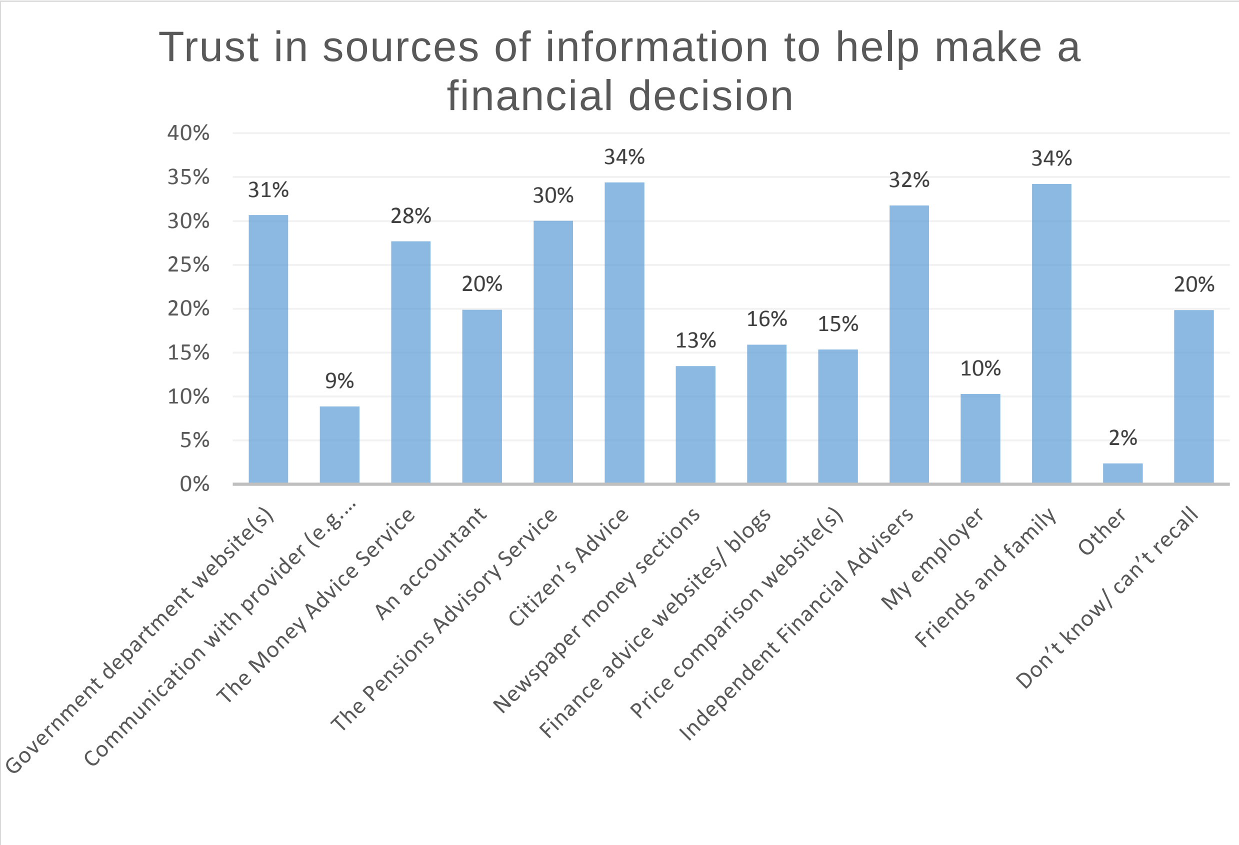
[5] Financial Capability Strategy for the UK (October 2015) 'UK Financial Capability Strategy', http://www.fincap.org.uk/

[6] ABI/YouGov survey data - total sample size was 2507 adults. Fieldwork was undertaken between 10 - 24 November 2014. The survey was carried out online. The figures have been weighted and are representative of all GB adults aged 18+. Question: '*Which, if any, of the following have you EVER used as a source of information to help make financial decisions? (Please select all that apply)*'

4.2. Alongside instances of ever using a source of information, we also collected responses to the question of which of these sources would they trust information from when using it to make a financial decision. The results, outlined below, are interesting in that the sources of information which have the highest trust levels are not reflective of the sources which respondents have necessarily used. Notably, government department websites, The Money Advice Service (MAS), an accountant, TPAS, and Citizens Advice all have the highest trust levels, yet the survey results suggest they have been less popularly used as sources of information than some of those sources with lower trust levels.



[7]

4.3. It is also clear that many consumers look to financial services firms for advice. The experience of Pension Freedom and Choice, for example, has shown that providers are a common first stop when consumers are considering what to do with their pension pot. This is reflected in the first month of the reforms where providers received over a million calls, 80% higher than the average month in 2014, and in the first week received over 10,000 written and email requests per day, more than double the average.[8]

[7] ABI/YouGov survey data - total sample size was 2507 adults. Fieldwork was undertaken between 10 - 24 November 2014. The survey was carried out online. The figures have been weighted and are representative of all GB adults aged 18+. Question: '*Which, if any, of the following sources would you trust information from when using it to make financial decisions? (Please select all that apply)*'

[8] ABI (April 2015) 'Insurers dealing with unprecedented customer demand following introduction of the pension reforms', https://www.abi.org.uk/News/News-releases/2015/06/Insurers-dealing-with-unprecedented-customer-demand-following-introduction-of-the-pension-reforms & ABI (April 2015) 'Pension providers meeting surge in consumer enquiries following introduction of pension reforms', https://www.abi.org.uk/News/News-releases/2015/04/Pension-providers-meeting-surge-in-consumer-enquiries-following-introduction-of-the-pension-reforms

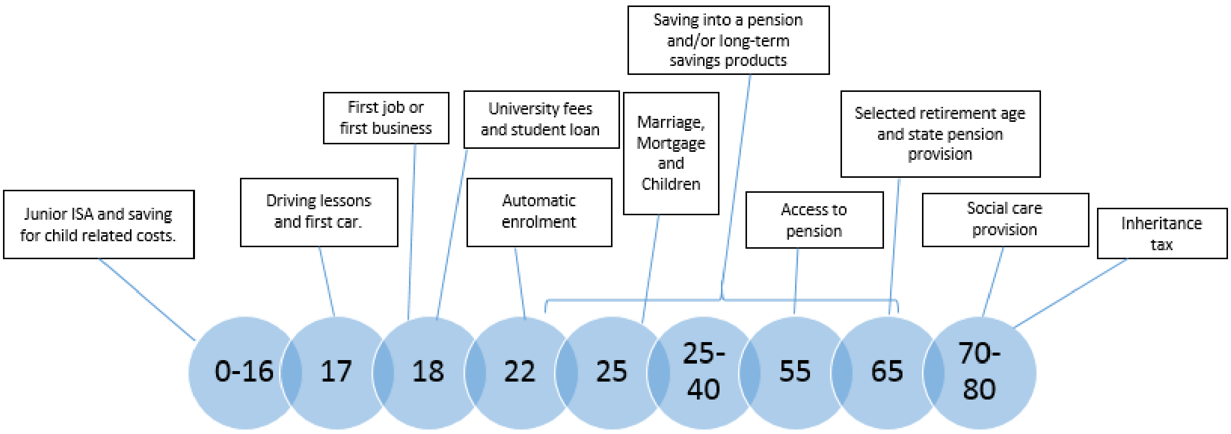
4.4. To support consumers, firms offer a range of information to consumers, including through online platforms and tools, on the telephone, and in the form of communications required by regulation, for example, wake-up packs, Key Information Documents and Key Facts Documents, illustrations and projections, and other forms of disclosure. For examples of the variety of online tools that providers offer, please see annex 2 of the ABI's Retirement 2050 report.[9]

4.5. The key role of public financial guidance providers including MAS, TPAS, and Citizens Advice, as well as a range of other front line providers, must also be considered. The role of public financial guidance providers is being considered in a separate consultation to which the ABI will also be responding. Our response to that consultation should be read alongside this response, and reflect the need for these important initiatives to be joined up, consistent and taken forward together.

5. Do you have any comments or evidence on the financial needs for which consumers may seek advice?

5.1. Financial need, its complexity, the age of the consumer, financial sophistication and broader circumstances are the key determinants for what type, or types of advice, a consumer will look for.

5.2. In terms of specific circumstances, the timeline below outlines some of the potential points across a person's life when they may be faced by a personal event which entails the need to consider, or actively take a decision, related to their finances. Of course we appreciate that individuals' lives are varied and people face a range of different circumstances. This representation is intended to be illustrative only.



[9] ABI (February 2015) 'Retirement 2050, Identifying the challenges of a changing world', https://www.abi.org.uk/~/media/Files/Documents/Publications/Public/2015/Pensions/Retirement%202050%20Identifying%20the%20challenges%20of%20a%20changing%20world.pdf

5.3. Whilst the box on page 10 of the Call for Input highlighting complexity of certain financial decisions is instructive and broadly correct, we would point out that this appears to assume a set level of financial capability. Some consumers with lower levels of financial capability may find decisions at the lower end of the complex scale challenging, whilst those with higher levels of financial capability may find decisions at the higher end easier.

5.4. In addition, this box seems to attribute more risk to saving into a pension or making a medium to long-term investment than taking out an unsecured loan or financing a house purchase. We are not convinced that this assessment of risk appears proportionate, if that is the intent of the table, considering the average UK individual pension pot is worth £43,300, yet the average house price is £186,350.[10]

6. Is the FCA Consumer Spotlight segmentation model useful for exploring consumers' advice needs?

6.1. We believe that there is a risk of placing too much emphasis on the FCA Consumer Spotlight segmentation model, for the purposes of this Review if it is to focus on long-term savings and retirement income products. This is because, as is noted in the Call for Input, the model is informed largely by survey data collected in 2013. This is a year before Pension Freedom and Choice was announced and only just shortly after the start of automatic enrolment. The model may not therefore adequately reflect current consumer segments, and the new range of options and challenges they face. The FCA Spotlight website itself explains that it is limited because: '…*the model is necessarily broad in scope, so may not provide all the detail on consumers we need for a particular issue. This is where additional work may be required within a specified market*.'[11]

6.2. Whilst we appreciate the need for some form of strategic framework for the Review to base its assessment on, we would also caution that the segmentation should not be too rigid. Rather it should provide a flexible and useful point of reference to ensure it is focussed where issues are found to be prevalent.

6.3. Ultimately, consumer segments are made up of individuals who are complex, having wide ranging characteristics, circumstances and preferences. Indeed, the behavioural biases that we identify in answer to question 8 could affect individuals in all of these segments. As such, we would urge the Review too avoid being too high level in its assessment, in case it loses sight of the human element.

[10] ABI (September 2015) 'UK Insurance and Long-Term Savings – Key Facts 2015', https://www.abi.org.uk/~/media/Files/Documents/Publications/Public/2015/Statistics/Key%20Facts%202015.pdf & Land Registry (October 2015) 'Land Registry – House Price Index', https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/479076/October_2015_HPI.pdf
[11] http://www.fca-consumer-spotlight.org.uk/consumer-spotlight#na, 'what are the limitations of the model?'

7. Do you have any observations on the segments and whether any should be the subject of particular focus in the Review?

7.1. We explore in more detail where we believe there are specific advice gaps, and what sort of consumers will have difficulty accessing advice, and why, in response to questions 19 to 21. We also identify a range of demand side barriers, which may prevent or influence a consumer not to access advice in answer to question 9.

7.2. The table below brings together the FCA consumer segments, as described in the Call for Input, and aligns them with the barriers we have identified, to demonstrate where we believe focus could be drawn. We have also included where behavioural biases could potentially be present.

FCA consumer segment	Barriers
Starting out	Cost of fee charging advice
Living for now	Cost of fee charging advice, financial capability, the present bias, avoidance and denial
Hard pressed	Cost of fee charging advice, financial capability, avoidance and denial
Striving and supporting	Cost of fee charging advice, financial capability
Stretched but resourceful	Hassle factors
Busy achievers	Hassle factors, overconfidence in ability to manage own money
Affluent and ambitious	Overconfidence in ability to manage own money
Mature and savvy	Overconfidence in ability to manage own money
Retired on a budget	Cost of fee charging advice, reaction to Freedom and Choice
Retired with Resources	Overconfidence in ability to manage own money, reaction to Freedom and Choice

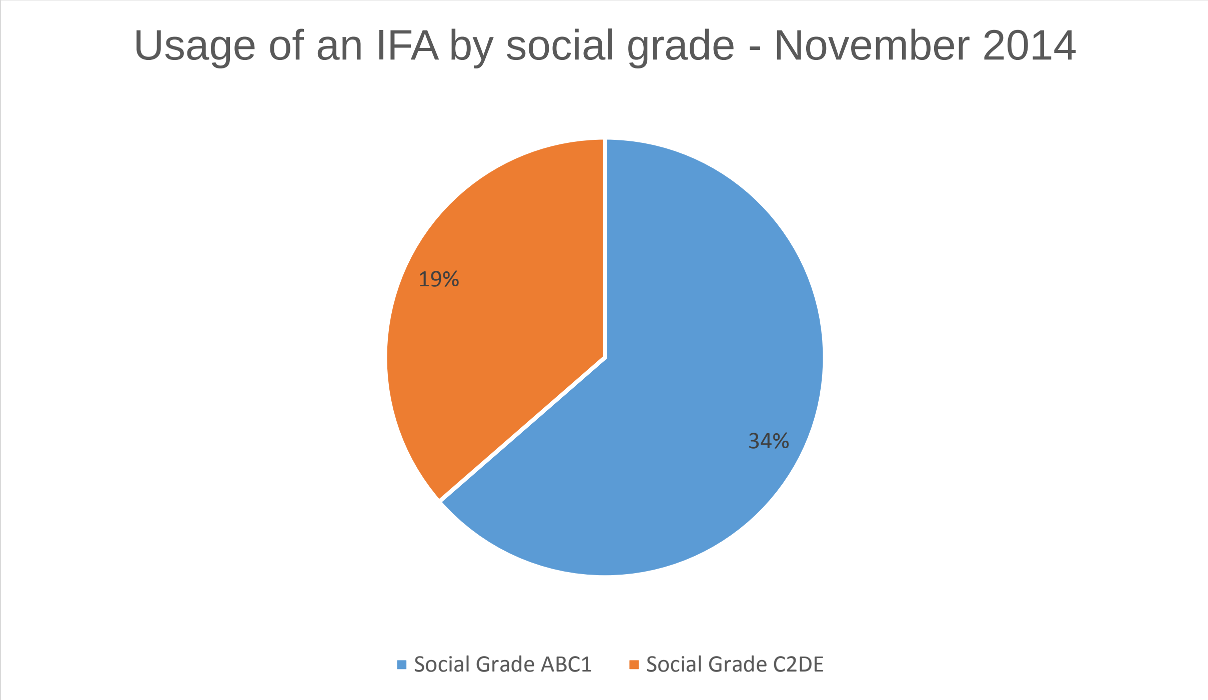
7.3. We again issue caution against over using the Consumer Spotlight approach, given its high level assessment. But, based on our analysis, the segments which suggest the need for most focus are starting out, living for now, hard pressed, striving and supporting, and retired on a budget.

8. Do you have any comments or evidence on the impact that consumer wealth and income has on demand for advice?

8.1. We agree that a consumer's income and wealth profile is a key factor in determining demand for advice and what type of advice they seek. Consumers with higher incomes, more wealth and assets are more likely to want, and be able to access, regulated forms of advice which charge a fee.

8.2. We have included a chart in answer to question 3 which demonstrates that IFA use tends to be higher amongst those with larger gross personal incomes.

8.3. YouGov survey data collected in November 2014 shows that of those who said they had used an IFA, 34% came from the ABC1 social grade, whilst 19% came from the C2DE social grade.



[12]

9. Do you have any comments or evidence on why consumers do not seek advice?

9.1. We agree with the reasons cited in the Call for Input as to why consumers do not seek advice. Specifically, we believe the key reasons are the following:

9.2. **Cost of fee charging advice**

Many consumers with lower wealth and income profiles, less to invest, and smaller and middle sized pension pots are either deterred from, or unable to afford the cost of accessing fee charging regulated advice. Recent research by Money.co.uk showed that consumers would only be willing to pay on average £253 for financial advice, with 60% only wanting to pay £200 or less.[13]

[12] ABI/YouGov survey data - total sample size was 2507 adults. Fieldwork was undertaken between 10 - 24 November 2014. The survey was carried out online. The figures have been weighted and are representative of all GB adults aged 18+. Question: '*Which, if any, of the following sources would you trust information from when using it to make financial decisions? (Please select all that apply)*'

[13] Money.co.uk (August 2015) 'Half of those making Pension Freedom Withdrawals will not pay for Advice', http://www.money.co.uk/press/half-of-those-making-pension-freedom-withdrawals-will-not-pay-for-advice.htm

Citizens Advice has published research which shows that only 2% of respondents with a £61,000 pension pot would be willing to pay more than £1,000 for fee charging advice, and 16% would be willing to pay between £200 and £999. However, this research also shows that 47% would be willing to pay a fee for advice, suggesting there is clearly appetite for lower cost fee charging advice.[14]

Whilst there are some options for regulated advice available which would fit with these cost expectations, the rump of the current fee charging advice market is still geared toward serving those willing to pay a fee up to and beyond £1,000, or those with high income, more wealth and larger pension pots.

9.3. **Low appreciation for the long-term value of financial advice**

As well as the cost itself, many consumers will focus on the upfront cost and overlook the longer-term value advice can add. This can be linked to 'present bias' – the tendency to focus on the now more than investing for the future. Consumers may not seek advice now because of the upfront costs and effort involved in making an appointment with an IFA, despite the potential future rewards of doing so. The effort associated with the process may even play into people's decisions not to use Pension Wise.

This is a problem because evidence suggests that an upfront investment in fee charging financial advice pays off in the longer run. Research undertaken by Unbiased.co.uk and MetLife in September 2015, reports significant growth in a pension pot for a median fee of £580 for retirement advice relating to a £200 a month contribution to a pension. They suggest that taking advice starting at age 25 can add an extra £34,300 to a pension pot, and at age 35 an extra £25,730, excluding tax relief and interest.[15] Research commissioned by Old Mutual also suggests that those who see a financial adviser pre-retirement at least once, and who have set a target for their retirement income, saw an increase in their average retirement income to £26,000 compared to those who did not with £17,500.[16]

[14] Citizens Advice (October 2015) 'The Affordable Advice Gap: How Affordable and Clear Pricing can help more Consumers Access paid-for Financial Advice', https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/debt-and-money-policy-research/the-affordable-advice-gap-how-affordable-and-clear-pricing-can-help-more-consumers-access-paid-for-financial-advice/

[15] Unbiased.co.uk (September 2015) 'New Data shows the Benefits of Financial Advice can Outweigh the cost by nearly 6,000%', https://business.unbiased.co.uk/press-releases/new-data-shows-the-benefits-of-financial-advice-can-outweigh-the-cost-by-nearly-6-000--7-9-2015

[16] Old Mutual Wealth (July 2014) 'Retirement Income Uncovered – Lifting the lid on Retirement Income in the UK Today', https://www.oldmutualwealth.co.uk/globalassets/documents/retirement1/retirement-report_low-res.pdf

9.4. Financial capability

Levels of financial capability in the UK are generally low, meaning consumers can be disengaged from financial decision making and the choices associated with it, including the choice to access advice. The recent Financial Capability Strategy for the UK report highlights that 14% of people do not agree that it is important to track income and expenditure, 22% cannot read a bank statement, and 28% prefer not to discuss money openly with anyone.[17]

9.5. Reaction to Freedom and Choice

In the context of retirement income, many consumers would have been planning what to do with their pension pot some time in advance of 6 April and been confident in the decision they had chosen. Over the longer-term, this dynamic is likely to shift, as more people approach and reach age 55. A further dynamic to consider is that the expansion of choice post-reform may have also caused inertia, with the added complexity overwhelming consumers. It is worth reflecting on the fact that in the first 3 months of the reforms, the amount of cash withdrawn represented less than 1% of all pension funds held by over 55s.[18]

9.6. Other behavioural biases

These are important to help understand why consumers may not seek advice. The Ideas42 report commissioned by the ABI into behavioural insights associated with Pension Freedom and Choice highlights a range of behavioural biases which could drive consumers away from accessing advice.[19] These include.

9.6.1. A lack of engagement

Consumers are often completely disengaged from the retirement planning process and tend to turn their attention toward it close to retirement age, making last minute decisions. This can include failing to allot enough time to assess the wide range of information available, act on recommendations from a Pension Wise session, or find and appoint an IFA.

9.6.2. Avoidance and denial

Consumers often avoid difficult or challenging tasks, especially if they feel ill-equipped to deal with them. This thought process can apply to retirement planning, especially where there are a significant number of unknown and unpredictable elements, such as longevity.

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[17] Financial Capability Strategy for the UK (October 2015) 'UK Financial Capability Strategy', http://www.fincap.org.uk/

[18] ABI (October 2015) '6 Stats for 6 Months: The ABI on the first 6 months of the Pension Freedoms', https://www.abi.org.uk/News/News-releases/2015/10/6-stats-for-6-months-The-ABI-on-the-first-6-months-of-the-pension-freedoms

[19] ABI/Ideas42 (February 2015) 'Freedom and Choice in Pensions: A Behavioural Perspective', https://www.abi.org.uk/~/media/Files/Documents/Publications/Public/2015/Pensions/Freedom%20and%20Choice%20in%20Pensions%20A%20behavioural%20perspective.pdf

9.6.3. **Overconfidence in ability to manage money wisely**

Consumers can be overconfident in their ability to manage their finances which can lead to poor decision making, and potentially overlooking advice they have received.

9.6.4. **Availability bias**

People tend to believe that an event is more likely because it is more easily recalled. In the case of advice, this could mean consumers are less likely to follow or trust advice because of, for example, coverage of mis-selling stories.

9.6.5. **Hassle factors**

These are often seemingly small hurdles, such as the requirement to fill out a form, which prevents a consumer from doing something that would ultimately be beneficial for them. The retirement planning process contains numerous hassle factors, including the effort involved in reading the wide range of information available, and making and attending a Pension Wise or IFA appointment.

9.6.6. **Choice and information overload**

The wide range of choice in the new retirement market and the sources of information available to consumers can put them off of engaging in the retirement planning process.

9.6.7. **Ambiguity aversion**

This is the tendency for consumers to want to avoid ambiguity. This can play a role in the retirement income search process, where customers will avoid sources of information where its intention, impartiality, and legitimacy is ambiguous, even if these sources of information are helpful.

(3) Where are the advice gaps?

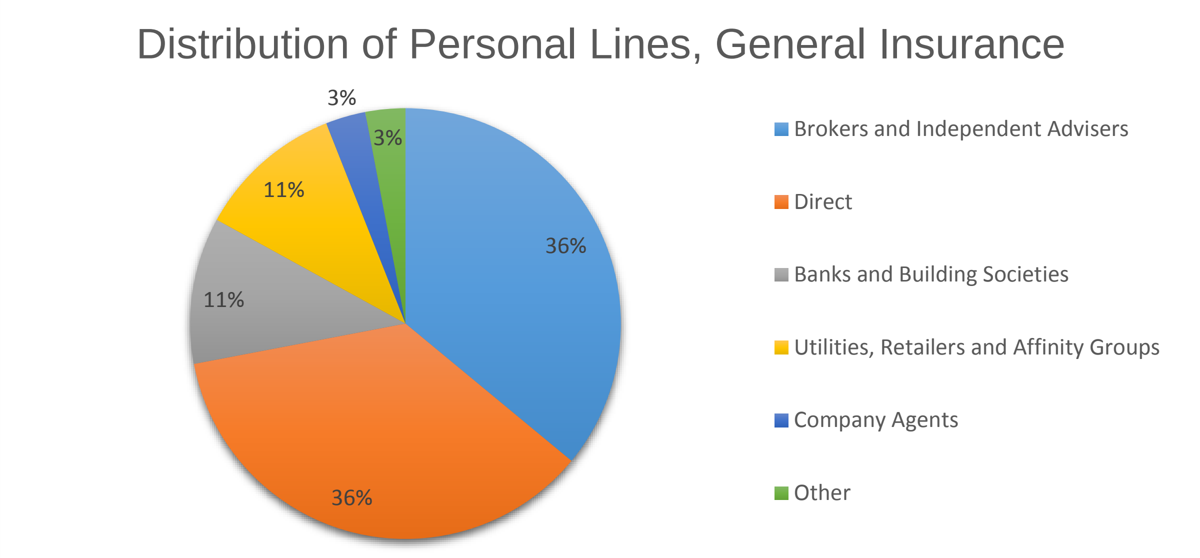
10. Do you have any information about the supply of financial advice that we should take into account in our review?

10.1. We agree with the Call for Input that trends in recent years have shown a shift from sale and distribution of financial products from advised to non-advised routes. We provide our assessment of why this has happened in answer to question 11.

10.2. For the markets in which ABI members operate, we felt it would be useful to provide an outline of how products are distributed.

10.3. General insurance

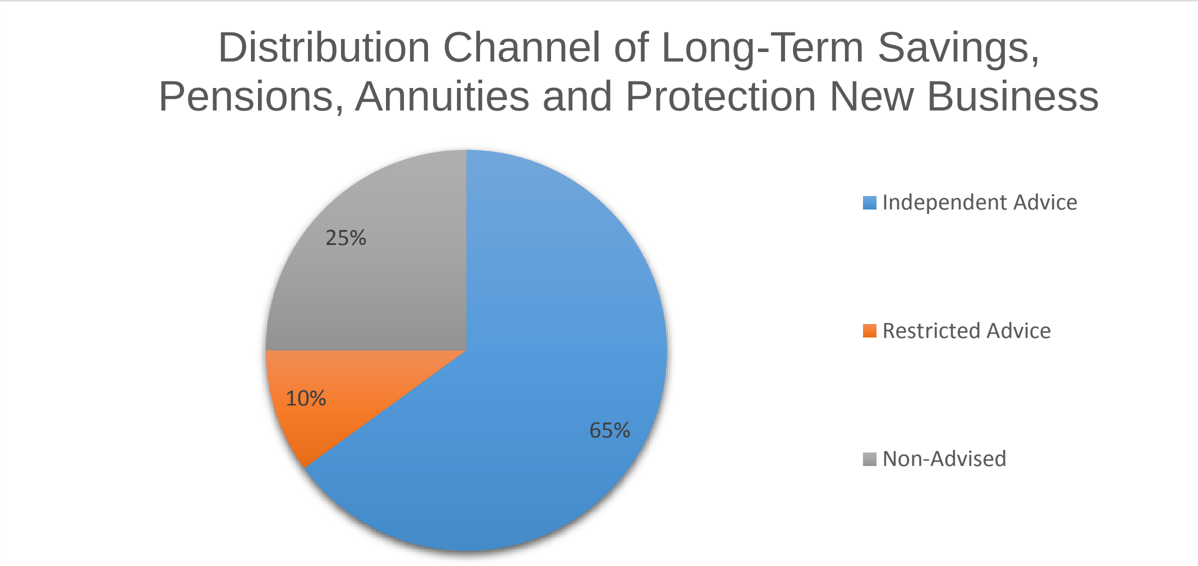
The chart below outlines distribution methods for general insurance lines.



[20]

10.4. Long-term savings

The overall statistics for distribution of all long-term savings, pensions, annuities and protection new business are set out in the chart below. This includes savings for retirement, investments and bonds, as well as life, critical illness, and income protection products.



[21]

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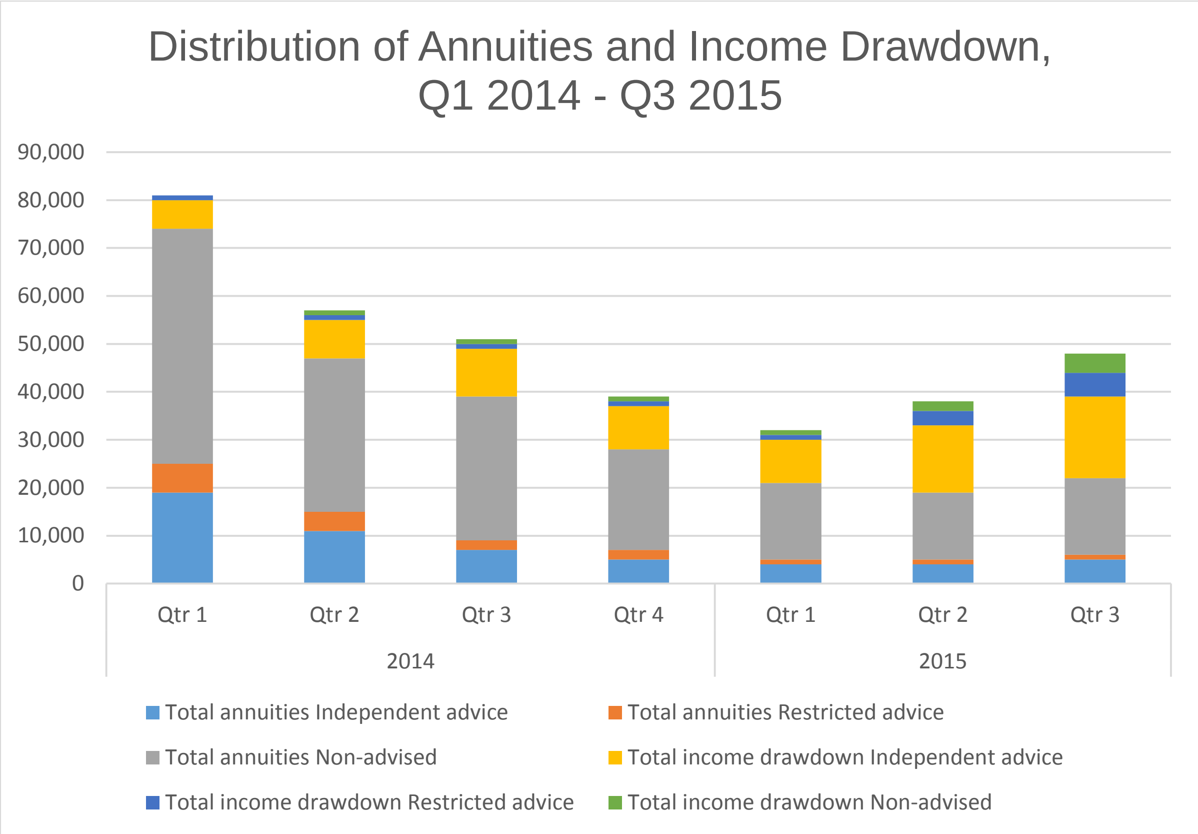
[20] ABI (September 2015) 'UK Insurance and Long-Term Savings – Key Facts 2015' https://www.abi.org.uk/~/media/Files/Documents/Publications/Public/2015/Statistics/Key%20Facts%202015.pdf
[21] ABI (September 2015) 'UK Insurance and Long-Term Savings – Key Facts 2015' https://www.abi.org.uk/~/media/Files/Documents/Publications/Public/2015/Statistics/Key%20Facts%202015.pdf

10.5. **Retirement income products**

The chart below shows distribution of annuities and drawdown products between Q1 2014 and Q2 2015 on an independent advice, restricted advice, and non-advised basis. These statistics do not include cash withdrawals.

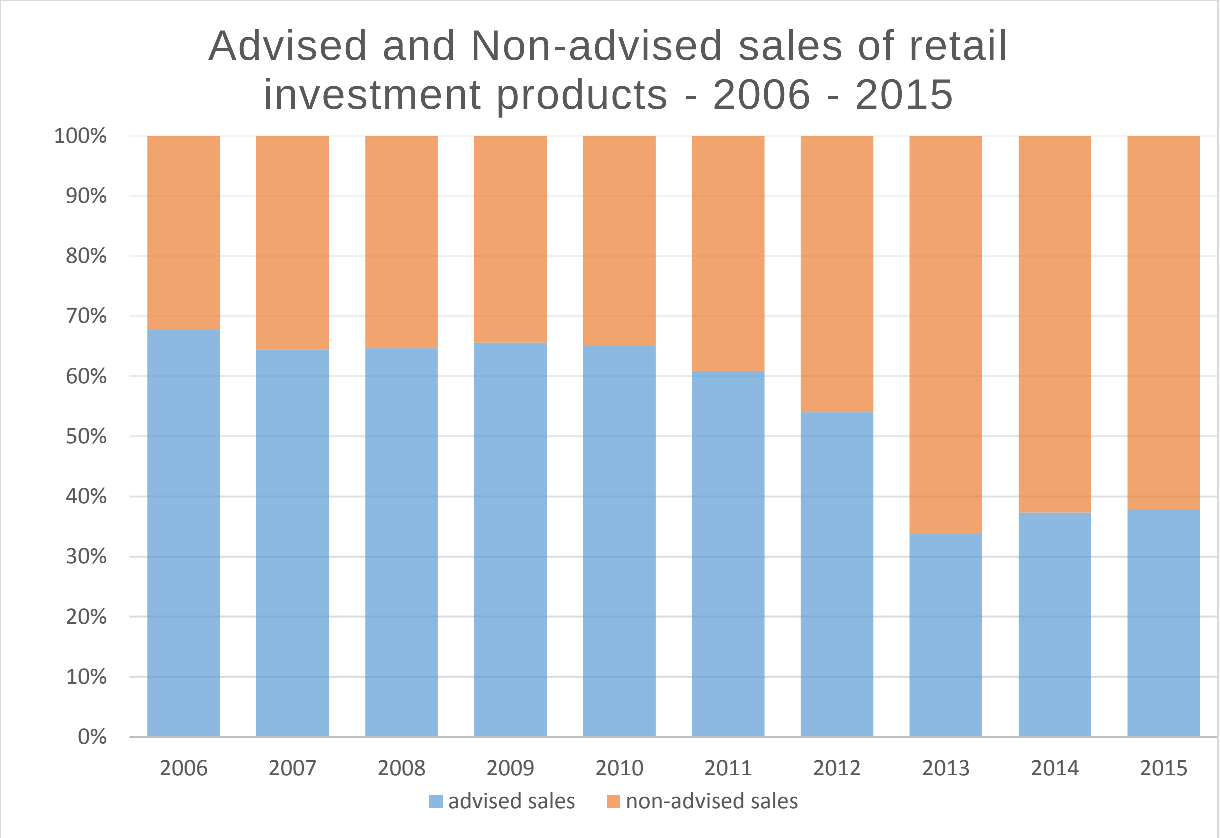


[22]

11. Do you have any comments or evidence about the recent shift away from sales based on professional advice, and the reasons for this shift?

11.1. The number of products sold on a non-advised basis has shown a significant increase over recent years, as the below chart demonstrates.

[22] ABI Statistics



[23]

11.2. There are two key explanations for this shift; the impact of the Retail Distribution Review (RDR) and introduction of upfront fee charging for advice; and increased consumer comfort and confidence in using execution only routes to interact with and purchase goods and services, especially online.

11.3. The shift from commission based to fee charging advice triggered many IFAs to assess their client bases and shift the focus of their business models toward more commercially viable clients. The post-implementation RDR research by Towers Watson highlighted anecdotal concerns about adviser capacity for consumer segments described as '*striving and supporting*', '*starting out*', and '*hard pressed*'.[24] The research listed the reasons for this reduction, in terms of these specific segments, as including: '*advisers focussing on customer segments that are most likely to be able to afford such an offering, or where the benefits of taking advice are most cost-effective.*'[25]

[23] FCA (December 2015) 'Annual PSD RI Data, Table 4.2, Number of Advised and Non-Advised Sales by FCA Firm Type', https://www.fca.org.uk/firms/systems-reporting/product-sales-data/interpreting-the-data, Note – 2015 figures are H1 only.
[24] FCA/Towers Watson (December 2014) 'Advice Gap Analysis: Report to FCA', https://www.fca.org.uk/static/documents/research/advice-gap-analysis-report.pdf
[25] FCA/Towers Watson (December 2014) 'Advice Gap Analysis: Report to FCA', https://www.fca.org.uk/static/documents/research/advice-gap-analysis-report.pdf

11.4. This dynamic is also noted in the post-implementation RDR research carried out by Europe Economics. They note that '*the ban on commission has led many firms to consider the fundamentals of their business models and make key changes, e.g. segmenting their customers, with some focusing on services to those with higher levels of investible assets.*' Although overall they conclude that they believe most advisers would still take on clients.[26]

11.5. It also needs to be considered that consumers who have shifted to non-advised routes may have in the past received advice with a charge, or may for example be receiving advice on other financial decisions and therefore feel a degree of comfort in taking a non-advised route.

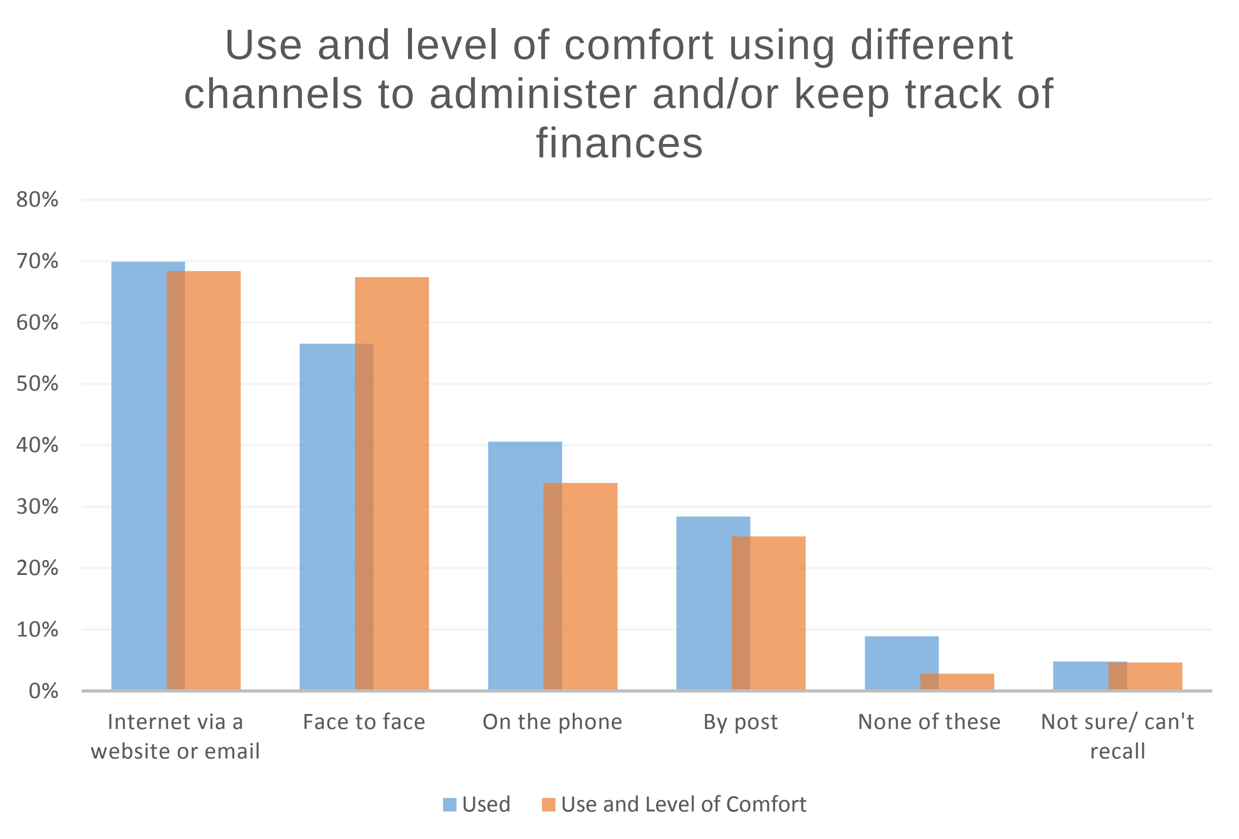
11.6. Secondly, this trend may be a result of increased consumer comfort in using direct approaches to buying and accessing financial products and services, especially online. We focus on this in answer to question 12.

12. Do you have any comments or evidence about the role of new and emerging technology in delivering advice?

12.1. The shift towards increased use of non-advised routes can in part be attributed to consumer comfort using new and emerging technology which delivers advice.

12.2. As the chart we used in answer to question 4 shows, many consumers are comfortable utilising price comparison websites, government department websites, and finance websites and blogs as a source of information to help them make a financial decision. [27] As the chart below also shows, many are using, and are comfortable using, online channels to administer and/or track their finances.

[26] Europe Economics (December 2014) 'Retail Distribution Review Post Implementation Review', http://www.fca.org.uk/static/documents/research/rdr-post-implementation-review-europe-economics.pdf
[27] ABI/YouGov survey data - total sample size was 2507 adults. Fieldwork was undertaken between 10 - 24 November 2014. The survey was carried out online. The figures have been weighted and are representative of all GB adults aged 18+. Question: '*Which, if any, of the following have you EVER used as a source of information to help make financial decisions?*'



[28]

12.3. Recently, we have also seen significant interest in, and potential for, online advice services, including those described as 'robo-advice' or 'automated', to offer lower cost alternatives to face-to-face or over the telephone advice only services.

12.4. There are firms that have already brought their online advice propositions to market, offering lower cost services to help customers as they navigate Pension Freedom and Choice. There is clearly a significant opportunity in this market and we focus on this in answer to questions 36-38.

13. Do you have any comments on how we look at the economics of supplying advice?

14. Do you have any comments on the different ways that firms do or could cover the cost of giving advice (through revenue generation or other means)? Do you have any evidence on the nature and levels of costs and revenues associated with different advice models?

15. Which consumer segments are economic to serve given the cost of supplying advice?

[28] ABI/YouGov survey data - total sample size was 2586 adults. Fieldwork was undertaken between 19th - 28th May 2014. The survey was carried out online. The figures have been weighted and are representative of all GB adults (aged 18+). Question: '*Which, if any, of the following methods have you EVER used to administer and/ or keep track of your finances?*'

15.1. IFAs, advisory firms and other firms who offer advice services, do so because there are commercial drivers and margins that make delivering these services profitable. As reflected upon in the previous answer, one of the impacts of RDR was advisers reviewing the clients they served, or may have looked to serve, and shifting focus toward customers who could outright afford the cost of advice.

15.2. In terms of which segments are economic to serve, recent research from Citizens Advice on attitudes to the cost of advice is informative. The research highlights that 80% of advisers listed on the MAS retirement adviser directory would take on a client with a £61,000 sized pot.[29]

15.3. Yet, as we highlight in response to question 16, paradoxically, significant numbers in the mass market are unwilling to pay for advice or unable to, meaning that whilst it could be economic to serve them, they may not be able to, or want to, pay for advice with a fee. We believe there are some options to reduce the cost of providing advice, which we detail in our response to question 39.

16. Do you have any comments on the barriers faced by firms providing advice?

16.1. We generally agree with the barriers listed in the Call for Input. If the focus of the Review is to be on investments, pensions and the retirement income market, these barriers will need to be looked at with consideration to the Pension and Freedom Choice reforms. The most significant barriers are:

16.2. **Liability in the new retirement market**

The rapid legislative and regulatory change we have seen since Budget 2014 has brought about a new environment, where many market developments remain unproven and conditions are yet to stabilise. Consumers face an increased range of complex options, and thus the risk that they may be ill-prepared to take economic decisions affecting their retirement is higher. As a result, firms face a challenge in offering consumers advice for the long term without running the risk of unknowingly exceeding their own risk appetites.

Liability in this market is therefore a critical barrier. It has been highlighted most clearly by the experience of frustrated consumers required to take advice by law, yet being unable in some circumstances to find advisers to assist them, due to concerns about potential future judgements by the FCA and FOS. This is reflected in a recent Aviva Adviser Barometer survey which found high levels of enthusiasm for the opportunities presented by Freedom and Choice, contrasted with 47% reporting concern about professional indemnity costs.[30]

[29] Citizens Advice (October 2015), 'The Affordable Advice Gap: How Affordable and Clear Pricing can help more Consumers Access paid-for Financial Advice'
[30] http://www.aviva.com/media/news/item/uk-advisers-rank-their-top-financial-priorities-for-the-new-government-17494/?cmp=eml-group-17494-html

16.3. **The regulatory boundaries for advice deter firms from offering additional support**

Whilst we welcomed the intention of the FCA's work on Retail Investment Advice, the boundaries set out in the Final Guidance are proving to be deterrents to firms who want to do more to help their customers. We believe that the boundaries are clear, but are not set in the right place to reflect the changes in consumer behaviour that have occurred under Freedom and Choice.

Specifically, we believe that some relatively common sense responses to consumer interactions and queries are withheld by providers because they fear they could stray unintentionally into regulated advice.

Examples include conversations about potential risks, such as considerations about the impact of tax or means tested benefits, potentially influencing a consumer's decision not to do something, and therefore being construed as advice. Another situation where help could be considered advice, is providing assistance to a beneficiary with their options after a customer dies.

In terms of the communication of information, whilst the Retail Investment Advice Final Guidance specifies that giving information and nothing more does not involve giving regulated advice, it is dependent on the circumstances and the context in which it is given.[31] This presents great difficulty when customers are looking for support with a choice, but where their circumstances and context may make the choice relatively obvious to the information provider, and would therefore deter provision of information which could help the customer.

This is a problem as providers want to do more to help consumers who often have simple queries, but cannot help because they risk, or perceive that they risk, being considered to have given regulated advice by the consumer. Some support services have been withdrawn as a result of these concerns.

16.4. **The cost of offering advice services and consumer unwillingness to pay for advice**

The provision of financial advice carries numerous costs. These tend to be linked to time spent, both by qualified advisers and non-adviser staff, on the activity of providing advice, as well as costs associated with administrative compliance, record keeping, overheads, and training for qualifications.

The costs of regulation as a consideration to offering regulated advice is important, as the 51% of respondents who listed concerns about regulatory fees and levies for the Aviva Adviser Barometer demonstrates.[32]

[31] FCA (January 2015) 'FG15/1: Retail Investment Advice: Clarifying the Boundaries and Exploring the Barriers to Market Development', http://www.fca.org.uk/static/documents/finalised-guidance/fg15-01.pdf
[32] Aviva (June 2015) 'UK: Advisers rank their top financial priorities for the new government', http://www.aviva.com/media/news/item/uk-advisers-rank-their-top-financial-priorities-for-the-new-government-17494/?cmp=eml-group-17494-html

In addition, consumer inability or unwillingness to pay for advice creates a barrier to firms offering it. Ultimately, firms may decide not to offer an advice service because there is a significant amount of evidence which suggests that the mass market may want advice, but are not able, or willing, to pay an amount for it which would make it viable. Citizens Advice survey results highlight that 55% of respondents would be unwilling to pay for advice, and based on Office of National Statistics data, 49% of households have financial wealth levels which would suggest that they could not afford to pay for advice.[33]

17. What do you understand to be an advice gap?

17.1. We agree with the definition of an advice gap as outlined in the Call for Input.

18. To what extent does a lack of demand for advice reflect an advice gap?

18.1. The lack of demand for advice reflects an unwillingness to use and engage with the advice that is currently available, suggesting that there are perceptions, beyond cost, that deter consumers from accessing advice. Ascertaining how we can make advice more engaging and challenging perceptions that regulated advice does not offer value for money will therefore be critical.

18.2. Part of the problem which we have highlighted is financial capability. Despite low levels of financial capability large numbers of consumers are purchasing financial services products through execution only channels. We should not dismiss those consumers who are taking this route and need to properly assess whether they are taking this route because they are happy doing so, or because they lack the financial capability to engage with advice which is currently available, or face other barriers.

18.3. We should, however, accept that there will be consumers who do not by choice wish to access advice, on any basis, and under any circumstances. Consumers who are comfortable with purchasing products on this basis without cause to utilise advice, and are not blocked in some way from accessing advice, should be respected for the personal decisions they make.

19. Where do you consider there to be advice gaps?

19.1. ABI membership spans the general insurance and long-term savings markets. We have assessed whether there are advice gaps for general insurance, long-term savings, retirement income products, protection and social care products.

[33] Citizens Advice (October 2015) ‘The Four Advice Gaps – An Analysis of the Unmet Consumer Needs around Financial Advice and Public Financial Guidance’, https://www.citizensadvice.org.uk/Global/CitizensAdvice/Debt%20and%20Money%20Publications/Fouradvicegaps.pdf

19.2. We believe that there are advice gaps with regards the needs of those without significant wealth or income, but with some money, and specifically in relation to long-term savings, including support when investing and saving into a pension, and taking an income in retirement.

19.3. We also believe that improvements to advice provision could have additional benefits to consumers who are underestimating the impact that ill health and injury could have on their income, as well as those underestimating their longevity, and potential need for long-term care. As such, the Review should consider solutions which will support consumers considering their protection and social care needs as well.

19.4. For general insurance, we have not found any evidence of a significant advice gap, or barriers to provision of advice in this market. For the majority of retail general insurance decisions there does not appear to be high consumer demand for financial advice provision.

19.5. For more complex general insurance needs, consumers can go to an intermediary. At the small and medium sized enterprise and commercial level, brokers and financial advisers provide advice on general insurance needs and we do not believe there is an advice gap for this market.

20. Do you have any evidence to support the existence of these gaps?

20.1. **Long-term savings**

The number of people who are not saving anything for retirement, and those who are not confident that they will be getting the retirement they want from the savings they have, indicate that advice is not currently effective enough in supporting long-term saving.

Whilst we appreciate that the Call for Input suggests that it does not wish to consider the savings gap, we believe that the savings gap itself is a glaring symptom of a broader long-term savings advice gap.

Research undertaken by the ABI in 2012 suggested that only 46% of people were making enough provision for their retirement, and ONS statistics suggest that the percentage of people ‘very confident’ or ‘fairly confident’ their income in retirement will provide the standard of living they hope for is 52%, rising from 41% between July 2010 and June 2015.[34]

[34] ONS (November 2015), ‘Early indicator estimates from the Wealth and Assets Survey, Wave 5, July 2014 to June 2015’ http://www.ons.gov.uk/ons/dcp171766_422909.pdf (preliminary stats)
https://www.abi.org.uk/~/media/Files/Documents/Publications/Public/Migrated/Pensions/Time%20to%20Act.ashx

Polling by the ABI commissioned in August 2015 showed that 62% said they have saved into a private, personal, workplace or other type of pension. However, 31% of these said they are actively saving, with the other 31% not saving at the moment. Even more worryingly, 36% said that they have not saved into a pension at all.[35]

In addition, we believe that there could be a gap when it comes to consumers interested in non-default, more complex long-term savings and pension options, and for those who are self-employed for example and would not have access to workplace pensions and support from employers.

We would also note that government policy, in the form of automatic enrolment, does not occur with advice. Whilst contribution rates are due to rise to 8% in 2018, we believe that this will not be sufficient to provide a suitable replacement rate for the majority in retirement. This means that there is a major challenge in how we can increase contributions through automatic enrolment without increasing the number of people opting out.

Solutions in this area will need to be focussed on enhancing guidance and information to encourage a savings culture.

20.2. Retirement income

We believe that there is strong evidence for the existence of an advice gap for consumers in this market, with significant demand for expert support not being catered for by the fee charging advice market.

Recent research by Citizens Advice has shown that 53% of those they surveyed wanted expert help when assessing their pension options, and 51% wanted advice on a product, which would involve accessing a regulated form of advice.[36] Yet, for the majority of these consumers, fee charging advice will be out of reach, or not meet with the expectations they have around how much it should cost, or what they would be willing to pay.

[35] ABI Omnibus Survey, August 2015, Table 7

[36] Citizens Advice (October 2015) 'The Affordable Advice Gap: How Affordable and Clear pricing can help more Consumers Access Paid-for Financial Advice', https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/debt-and-money-policy-research/the-affordable-advice-gap-how-affordable-and-clear-pricing-can-help-more-consumers-access-paid-for-financial-advice/

The research demonstrates that 80% of IFAs on the MAS retirement advisory directory would be willing to take on clients with pots of a value of £61,000. However, the average individual pension pot is £43,300.[37] In addition, Citizens Advice highlight that the average cost to get a flexible income from a £61,000 sized pot would equate to £1,490, which is the net monthly salary of a median earner in the UK. This means for a significant number of people, fee charging advice is not currently an option they can consider.

However, it is clear that not all of these consumers will need or want fee charging advice. This means that the solutions in this area must be focussed on delivering lower cost forms of fee charging advice for those who want and need it, and enhanced guidance and information for those who do not want to take fee charging advice.

20.2.1. **Protection**

We have concerns about public awareness when it comes to the value of protection products. In the same way that many people underestimate what they need to save for the retirement they want, research similarly shows people greatly underestimate the risk of being too ill to work and overestimate the support they would receive from the state and their employer. This is compounded by concerns across the board centred on low levels of financial capability.

Research carried out by the Centre for Economic and Social Inclusion, commissioned by the ABI, has found that 10.6 million households, more than 60% of working families, would see their income fall by more than one third if the main earner had to stop work due to ill health, with 40% seeing their income fall by more than half. Around 250,000 people leave employment each year due to ill health, around 1% of the workforce, 60% of these are the main household earner. A survey by the MAS found that 60-70% of households with an annual income of £35,000 or less did not have savings equal to one months' household income and almost half of working age couples or families do not have life cover.

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[37] Citizens Advice (October 2015) 'The Affordable Advice Gap: How Affordable and Clear pricing can help more Consumers Access Paid-for Financial Advice', https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/debt-and-money-policy-research/the-affordable-advice-gap-how-affordable-and-clear-pricing-can-help-more-consumers-access-paid-for-financial-advice/ & ABI (September 2015) 'UK Insurance and Long-Term Savings – Key Facts 2015', https://www.abi.org.uk/~/media/Files/Documents/Publications/Public/2015/Statistics/Key%20Facts%202015.pdf

Protection insurance products offer individuals a crucial safety net against these risks, and insurers consistently pay the overwhelming majority of claims. In 2014, 97.7% of Protection insurance claims were paid out in 2014. A total of £1.4 Billion was paid in term life insurance claims, with the average paid out for each claim at £60,900. Those who claimed on Critical Illness insurance policy received an average of £67,000. These payments make a substantial difference to families in extremely difficult circumstances.

Wider society has a substantial interest in the take up of financial protection. Take up of Income Protection delivers a significant fiscal benefit to the exchequer in the form of reduced expenditure on benefits, increased tax revenue, and improved productivity.

Another point to note is that Individual Income Protection (IIP) needs to be sold through intermediaries due to the interaction with benefits. The introduction of Universal Credit will exacerbate this need as it will lead to people losing more of their benefit entitlement in the event of a claim. This will make assessing the value of IIP, particularly to middle income families, more complex.

As such, we see that there is a critical need to consider how improvements to consumer access to advice can help the significant number of households who are not currently prepared for the financial difficulties that can arise as a result of a death, serious illness or injury. Improving access to other forms of guided sales processes is also a crucial part of this process. This must be supplemented by a broad effort from a range of stakeholders to improve public knowledge about the protection gap and the availability of Protection insurance products. We have been working with MAS on this issue and we will take this forward in the New Year.

20.3. **Social care**

As with protection, there are fundamental issues with individuals' understanding and awareness of the need to plan and pay for long term care costs. Arguably this is exacerbated with regards to social care, the triple threat of increased customer inertia, underestimations of longevity and under-saving for retirement (excluding potential care costs) demonstrating the need for considerable improvements to the provision of advice. Coupled with the fact that individuals grossly overestimate what the state provides in terms of social care support and underestimate how much care costs, there is a real opportunity with this Review to find some effective solutions.

The insurance industry has an important role to play in the care debate and has been positively contributing to it over the past few years. But, industry can only play its role effectively if individuals are aware of the fact that they may have future care needs and understand how much these needs are likely to cost. According to a consumer survey we conducted this summer, when asked how much it costs for someone to live in a care home and receive nursing care, 86% of people thought that it would not cost more than £30,000 a year.[38] According to Laing & Buisson, the cost of care with nursing in a home is on average £37,500 a year.[39]

We therefore see a need to take into account the promotion of awareness and access to advice, in particular improving routes to advice, to ensure that people are better prepared for longer-term care needs.

21. Which advice gaps are most important for the Review to address?

21.1. We would support the Review focussing on all of the areas where we have identified advice gaps, as outlined in our response to question 20.

22. Do you agree we should focus our initial work on advice in relation to investing, saving into a pension and taking an income in retirement?

22.1. We support the Review's proposal to focus initial work on investing, saving into a pension and taking an income in retirement.

22.2. We also believe that improvements to advice provision could have additional benefits to consumers who are underestimating the impact that ill health and injury could have on their income, as well as those underestimating their longevity, and potential need for long-term care, as stated in answer to question 20.

23. Do you agree we should focus our initial work on consumers with some money but without significant wealth? What exact income/wealth thresholds should we use to determine which consumers we will focus on?

23.1. We support the Review's proposal to focus on those without significant wealth or income, but with some money. In relation to retirement income, we believe the focus should be for pension pots of up to £100,000, as those with pots above this amount should be able to pay for advice.

[38] Populus surveyed 2,101 UK adults online on behalf of the ABI from 28th to 31st August 2015. Results were weighted and are representative of the UK population aged 18+.
[39] Laing & Buisson (2013/14) 'Care of Older People: UK Market Report 2013/14', http://www.payingforcare.org/care-home-fees

<u>(4) What options are there to close the advice gap?</u>

24. Are there aspects of the current regulatory framework that could be simplified so that it is better understood and achieves its objectives in a more proportionate manner?

24.1. The regulatory framework should be reviewed with a view to simplifying the categorisations and definitions used to describe advice. In addition, the advice boundary should be reviewed, with consideration of the requirements of MiFID, to enable more open and constructive engagement with customers.

24.2. We set out a proposed solutions on these subjects answer in question 39.

25. Are there aspects of EU legislation and its implementation in the UK that could potentially be revised to enable the UK advice market to work better?

26. What can be learned from previous initiatives to improve consumer engagement with financial services?

27. Are there any approaches to the regulation of advice in other jurisdictions from which we could learn?

27.1. The key piece of EU legislation that impacts the UK domestic advice market is the MiFID, and the forthcoming MiFID II which is currently scheduled to take effect from January 2017. MiFID II will define the standards that are required when providing independent advice, will set an inducements regime for firms giving independent advice and portfolio management and will establish new requirements for due diligence, suitability and appropriateness.

27.2. MiFID II does not automatically apply to pensions and insurance based investment products. However, when implementing MiFID the FCA applied the regime to these products. If the same approach is adopted for MiFID II, a key impact will be the limitation of what can be achieved in terms of regulatory change in these areas. MiFID II includes introduction of an appropriateness test for non-advised sales of complex products and changes to suitability reports, including ensuring that all recommendations are personalised.

27.3. The Review must also consider the Insurance Distribution Directive (IDD), which will replace the Insurance Mediation Directive. IDD, in effect, contains much of the same provision as MiFID II including that relevant to advice, but with the key difference that it includes insurance based investments, although not pensions, and does not have to be implemented until 2018.

27.4. We believe that there may be benefits in reviewing whether or not the FCA should apply MiFID II based requirements to pensions. This would leave some scope to Review the regulatory approach as a result of the feedback received through responses to FAMR, without the conflict of simultaneously consulting on implementation of MiFID II based requirements. As IDD will be applied to insurance based investments from 2018, a similar approach could be used for pensions, after the FAMR recommendations have been identified.

28. What steps can be taken to address behavioural biases that limit consumer engagement without face-to-face advice?

28.1. We have listed a range of behavioural biases which can effect consumer decision making in the retirement income market in answer to question 9. It is essential the range of these biases, which may deter consumers from accessing advice, are considered as part of the Review.

28.2. The FCA is already behaviourally trialling wake up packs and Pension Wise has taken into account user research as part of the continued evolution of its service. These are positive steps and we would urge the government and FCA to proactively identify other opportunities to leverage its behavioural insight resources into areas where it can help improve the communication of advice, or nudge people toward accessing it at the optimum time. We expand on this in answer to question 39.

28.3. The research commissioned by the ABI, and undertaken by Ideas42, sets out a range of recommendations which could be applicable to improving engagement with advice in the retirement income space.[40] These include.

28.4. **Encouragement of employer involvement**

Employers can help provide a trusted and independent prompt to employees to engage with retirement planning early on. This could involve signposting employees toward guidance and advice, or providing their own behaviourally trialled communication and workshops for those approaching retirement.

[40] ABI/Ideas42 (February 2015) 'Freedom and Choice in Pensions: A Behavioural Perspective', https://www.abi.org.uk/~/media/Files/Documents/Publications/Public/2015/Pensions/Freedom%20and%20Choice%20in%20Pensions%20A%20behavioural%20perspective.pdf

28.5. **Early communication from providers and Pension Wise**

28.6. Providers could communicate prior to the wake up pack to ease people into the retirement planning process. Inclusion of a checklist for example would help encourage customers to begin planning early on and could signpost to independent information or tools and guidance. Similarly, Pension Wise could be utilising behaviourally informed communications with consumers approaching 50 to signpost them to the service.

28.7. **Reduce ambiguity around sources of advice**

28.8. We would like to see the range of sources which provide advice being clear about their intentions, and what they do and do not provide. Regulated advisers and Pension Wise already do this by meeting regulatory standards and being clear about the type of advice they are offering. Ambiguity about the source of advice can be a deterrent to accessing it, so the less there is the better.

29. To what extent might the different types of safe harbour described above help address the advice gap through the increased incentive to supply advice

30. Which areas of the regulatory regime would benefit most from a safe harbour, and what liabilities should a safe harbour address?

31. What steps could be taken to ensure that a safe harbour includes an appropriate level of consumer protection?

32. Do you have evidence that absence of a longstop is leading to an advice gap?

33. Do you have evidence that the absence of a longstop has led to a competition problem in the advice market e.g. is this leading to barriers to entry and exit for advisory firms?

34. Do you have any comments about the benefits to consumers of the availability of redress for long-term advice?

35. Do you have any comments or suggestions for an alternative approach in order to achieve an appropriate level of protection for consumers?

35.1. As our answer to question 16 explains, a deterrent for advisers to operate more actively in the retirement income market is linked to concerns about liability as a result of the new and unproven nature of the market following the reforms.

35.2. However, whilst we welcome the inclusion of the safe harbour and longstop measures for discussion in this Call for Input, we are not convinced that a safe harbour style approach to managing or limiting liability will be beneficial for consumers.

35.3. We do, however, believe that the FOS and FCA can do more in this area to reduce concern about liability and we have outlined a proposal for a 'complaints sandbox' in answer to question 39.

36. Do you have any comments on the extent to which firms are able to provide consistent automated advice at low cost? Are you aware of any examples of this, either in the UK or other jurisdictions?

36.1. We have already seen some examples of innovative automated forms of advice being brought to market in the retirement income space, proving that this approach is both workable and can deliver regulated advice at a lower cost to consumers.

36.2. We believe that there is considerable scope for the development and deployment of automated approaches to advice, delivering cost efficiencies through a customer driven fact find, employing algorithms to assess consumer needs, circumstances and attitudes to risk, before providing recommendations, and even the capability to transact through an online portal. Emerging systems currently have a degree of human interaction available, with telephony support for example, including available QCF level 4 advisers to support consumers through their online journeys.

36.3. Automated approaches will not be suitable for all consumers, but supporting the infrastructure to deploy these approaches is essential for the increasing numbers of consumers who are more comfortable using digital, rather than traditional advice channels.

37. What steps could we take to address any barriers to digital innovation and aid the development of automated advice models?

37.1. There have already been some automated approaches brought to market. This suggests that the regulatory framework allows for the development of such approaches, but that firms risk appetites, or commercial assessment considering the significant upfront cost of investing in automated advice, dissuade them from developing propositions. As with any product or service, not every advice provider will necessarily want to enter the market and they will have individual and commercial reasons for taking this decision.

37.2. As we are in the relatively early stages of the emergence of automated advice models in the UK, and the market is therefore somewhat untested, we do not feel that any specific regulatory change is necessary at this point. It will be important that the FCA monitors the development of this market, to ensure that all propositions that reach consumers have been developed and implemented to an appropriate standard.

37.3. Whilst we do not identify specific regulatory barriers to automated advice beyond uncertainty, we would note that the overall volume of regulation, and the speed with which regulatory rules react to innovation, can tend to absorb firms resources at the expense of innovation, and can complicate the development of new propositions.

37.4. We therefore welcome the FCA's Project Innovate initiative and more recently the announcement of proposals to develop a regulatory sandbox. We support this sandbox approach as a key testing ground for firms who wish to innovate and explore the development of automated advice, as well as to receive guidance and support from the regulator.

38. What do you consider to be the main consumer considerations relating to automated advice?

38.1. As with any emerging distribution model or product, the need to be conscious of consumer needs and risks should be paramount. With automated advice models, consumer considerations lie on both the demand and supply sides. From the supplier point of view, there could be a failure in design to the technology itself leading to a poor outcome. From the demand side, consumers using automated advice could, for whatever reason, input incorrect information and therefore receive advice based on incorrect details. However, with strong governance procedures and safeguards, we believe that consumer interests can be safeguarded.

39. What are the main options to address the advice gaps you have identified?

39.1. We do not believe that there is only one solution to the current gaps in the provision of advice. As such, we recommend a suite of solutions aimed at making advice easier to access, easier to provide, improving access to information, and enhancing guidance.

39.2. ***Making advice easier to access***

39.3. **Enable the output of a guaranteed guidance session to include production of a portable pension fact find that can be used with a fee charging advice provider**.

Pension Wise is already required by FCA rules to collect detailed information from people when undertaking a Pension Wise session (see appendix one for details).

A significant amount of this information is consistent with that required during an IFA fact find process. We see significant scope for the agreement of a standardised format for a portable pension fact find document which can be completed as part of the guaranteed guidance session, agreed and signed off by the customer, and provided to them to take away to assist with their retirement planning.

This document could help reduce the amount of time spent by an advice provider on the fact find, one of the most time intensive parts of the process, therefore opening up opportunities for efficiency gains. It also has the benefit to the customer of having all of their information in one place, meaning they do not have to repeat all of the fact find process multiple times. Even if they subsequently choose to take an execution only route, this could aid them in shopping around and in making a more informed decision.

Robust governance structures would need to be put in place to ensure that consistent and accurate collection of information was undertaken and presented. In addition, an agreement on the distribution of liability for the information collected would need to be sought, with guaranteed guidance providers being liable for undertaking the correct processes, and the consumer accepting liability for providing the right information. We believe that additional FCA rules would be required to ensure that all parties involved would have confidence to engage with the portable fact find.

39.4. **Review the tax regime for employers offering advice and support to employees.**

In the pension and retirement income space there is a key role for employers who do much to help encourage saving, not least through automatic enrolment, but also through provision of internal and external advice to their employees. Any measures that involve employers doing more should be focussed on providing incentivisation, rather than compulsion, and removing current barriers.

The recent Confederation of British Industry (CBI) pension survey shows some appetite amongst businesses for doing more to support and engage employees at both the accumulation and decumulation phases of their Defined Contribution pensions. Maximising employee engagement with pensions is the highest ranked business priority, and in answer to a separate question, nearly half of respondents are looking at additional propositions, including guidance, and 15% are encouraging employees to contribute more to their schemes.[41]

However, employers are currently concerned about both the cost associated with providing advice, or additional engagement, and liability, when issuing advice to employees. We believe that reviewing and re-clarifying the advice boundary will help to provide employers with a clearer understanding of what they can and can't do in terms of advice provision.

[41] CBI (October 2015) 'A View from the Top', http://news.cbi.org.uk/cbi-prod/assets/File/pdf/CBI-Mercer%20pensions%20survey%20October%202015.pdf

In terms of cost, current HMRC guidance outlines that for information or advice provided generally, for example a presentation open to all employees, no tax charge is generated. However, for one to one pensions advice provided by an external adviser, a tax charge is incurred when it costs over £150. Exemptions include if it is under £150, similar advice offered to all employees, focussed on just pensions, or if it is to meet the obligation to provide independent advice for those who want to transfer from a Defined Benefit to a Defined Contribution scheme.[42]

We would urge further exploration of whether the rules on tax charges for one-to-one advice on pensions could be reviewed to see if there is scope to provide more of an incentive for employers to bring in external advisers at a lower cost.[43] We would also support the exploration of this for advisers who could offer advice on a range of other financial issues that employees may face, including consideration of advice for needs such as protection and social care.

In addition, many employers currently offer benefits such as loans and vouchers for a range of goods and services, including payment of travel associated with their employment, loans for bikes, and for deposits on rental accommodation. The Government could explore whether there is scope to design and incentivise tax efficient loans or vouchers as an employee benefit aimed at paying the cost of fee charging financial advice.

It should be explored whether employers can play a more active role in signposting employees at age 50 toward accessing guidance, without overburdening businesses.

As we noted in response to question 20, the role of the employer is linked closely to the continued implementation of automatic enrolment. There is a major challenge in how we can increase contributions through automatic enrolment without increasing the number of people opting out. Any enhanced role of the workplace in advice provision should be built to reflect and help overcome this challenge.

We also recommend that government and industry work together to develop a means for employees to clearly and simply check their combined level of protection from the state and their employer. For example, a protection statement that explains someone's chance of being off work sick for 28 weeks and what their combined income would be each month and the chance of being off work sick for 12 months and their income. This could be included in people's P60 or accessed online and help people better understand their potential needs should they be unable to work.

[42] HMRC 'EIM21802 – Particular Benefits: Pension Provision: Pensions Advice Provided by an Employer: Exemption from Charge', http://www.hmrc.gov.uk/manuals/eimanual/eim21802.htm
[43] HMRC (December 2015) 'Income Tax: Statutory Exemption for Trivial Benefits in Kind', https://www.gov.uk/government/publications/income-tax-exemption-for-trivial-benefits-in-kind/income-tax-statutory-exemption-for-trivial-benefits-in-kind#who-is-likely-to-be-affected

39.5. **Review and reduce the categorisations and definitions used to describe advice, with the aim to make them more consumer friendly.**

As it stands, there are numerous descriptions, categorisations and definitions used for advice, and various different terms associated with it, some of which are enshrined in regulation, and some of which are not. They are overly complex and confusing to both consumers and to firms. We support their review, both looking at the underlying regulatory sources, including the FCA Handbook and the Regulated Activities Order, to make them more consumer friendly.

We believe simplification will help consumers clearly understand what they are receiving, and make it easier for firms to develop new advice propositions. We would support and be happy to participate in a taskforce to review these categories.

39.6. ***Making advice easier to provide***

39.7. **Help advice providers better understand potential future liabilities by developing a 'complaints sandbox'. Many complaints relating to current sales, will not be received until many years later, so a hypothetical test case environment in which FOS can adjudicate and publish findings on potential future complaints now would benefit firms and consumers.**

Longer-term liability is a deterrent for some advisers to taking on clients who want to make a retirement income decision. As such, we support the modelling of hypothetical future complaint scenarios, investigations, and judgments, supported by the FOS, FCA and the financial services sector.

This would be completely based on current regulatory standards and forecasts, non-binding on future complaints and judgements, but provide a publically available guide as to how the regulator and ombudsman would approach a hypothetical complaint now. This could help to counter accusations of retrospection in the future, as well as help provide some comfort for advisers concerned about the treatment of unknown future liabilities.

For example, a virtual complaint could be generated around specific retirement income advice given to an individual now, based on various modelled conditions ten or more years into the future. The advice could be stress tested against scenarios including impact of economic conditions on the product, or introduction of new legislation, to test whether the complaint is legitimate or not. The findings of the hypothetical complaint could then be published, similar to current practise for live FOS complaints findings.

39.8. **Support, guide and ensure consistent application of regulatory standards for development of 'robo-advice' propositions, including continued support through Project Innovate.**

We consider that robo-advice propositions are likely to play a key role in the supply of advice. The FCA's Project Innovate has already supported providers developing robo-advice solutions. In November, the FCA announced that it intends to review options for and develop and launch a regulatory sandbox. In its report, it noted as a case study, how the sandbox approach could potentially apply to a firm looking to test a new automated advice proposition, in a safe space. We support the FCA's work and the aim of encouraging firms to utilise this environment where they are interested in testing the feasibility of a proposition.

In addition, in our response to FCA Consultation Paper 15/30 we argue that the sandbox could also be a useful tool for firms looking to test the effectiveness of innovative retirement communications. We hope that once the sandbox is operational it will become an effective testing ground for smarter retirement communications.

39.9. ***Improving access to information***

39.10. **Review and re-clarify the boundary of regulated advice against previous FCA guidance and forthcoming MiFID II requirements, to enable better support for customers that cannot, or will not, pay for fee charging advice.**

Firms and advisers, both in the contract and trust environment, are too often concerned about the risk of crossing, or having been perceived to have crossed, the boundary between unregulated and regulated advice. This reduces the scope for firms to offer support to customers and reduces the relevance a consumer can expect from the information they provide.

As such, we believe that the FCA's Finalised Guidance on Retail Investment Advice (FG15/1) should be reviewed to assess whether the boundary is in the right place and particularly whether any narrowing of information should be considered as advice without a personal recommendation.

Connected to this, the Review should include the development of 'universal truths' or 'rules of thumb' as an agreed guide for providers to delineate generic information and messaging which will be suitable for the vast majority of consumers. This could include common sense information such as dealing with debt and considering the sustainability of their pension pots.

This approach should allow providers to have a constructive and helpful conversation with customers without fear of straying into regulated advice.

In addition, when considering the advice boundary, it should be explored whether there is a space for an additional category of non-advised services, offering guidance and personalised information outside of the advice and personal recommendation definitions.

Reviewing the advice boundary could also help drive employers who want to help their employees to do more. As we note above, employers are currently concerned that they could cross the advice boundary and open themselves up to unintended risk. Extending what can be done with information could help provide useful clarity and comfort to employers on what information they can provide to their employees.

39.11. **Continue to work together to drive forward the development of a pensions dashboard with the objective of a single view of pension assets and entitlements.**

The development of a pensions dashboard will be a crucial tool in helping people better engage with their pensions. Far too many people are unaware of the savings they have accrued and the dashboard will help bring information about all of their pensions together in one place. This will help ensure that people are aware of what they have, what they need to save to provide for the retirement they want. It could also help them in providing the basis of their circumstances in a more efficient way when it comes to engaging with Pension Wise, IFAs, and public financial guidance providers when exploring their retirement options.

Work has begun to develop a framework for a pension dashboard solution and we would urge government to continue to offer its backing, to help bring all relevant parties together and also ensure it can incorporate state pension provision. In practice, there are likely to be multiple competing dashboards and this underlines the role of the public sector: to help oversee the whole system; to determine what credentials are required to operate a dashboard; and, if there are gaps in provision, to offer a central dashboard through a public financial guidance service.

39.12. ***Enhancing guidance***

39.13. **Integrate Pension Wise and The Pension Advisory Service (TPAS), with one central point of contact, with signposting towards guidance at age 50.**

In response to the Treasury Public Financial Guidance Consultation, we argue that there is scope for a more integrated approach to provision of guidance for pensions and retirement income.

This would be achieved by seeking closer integration of Pension Wise and TPAS, with TPAS acting as the first point of contact, signposted to by government at age 50, for a telephone based conversation about pre-retirement finances. In our report with KPMG, we envisaged a triage mechanism at first contact. This can be supplemented by the Pension Wise website, use of which has been encouraging to date.

TPAS should be the logical first port of call as it can deal with queries from all consumers with a pension, regardless of whether they have Defined Contribution, Defined Benefit or the State Pension. TPAS would then be able to triage consumers to Pension Wise, or other services as appropriate, including an IFA.

We are keen to work with the Government and public financial guidance providers to test how this could work in practice in order that such a signposting communication from government can be best targeted.

The Treasury should also give consideration to running of the Pension Wise website, and how the existing tools offered by the MAS can be incorporated into the Pension Wise process.

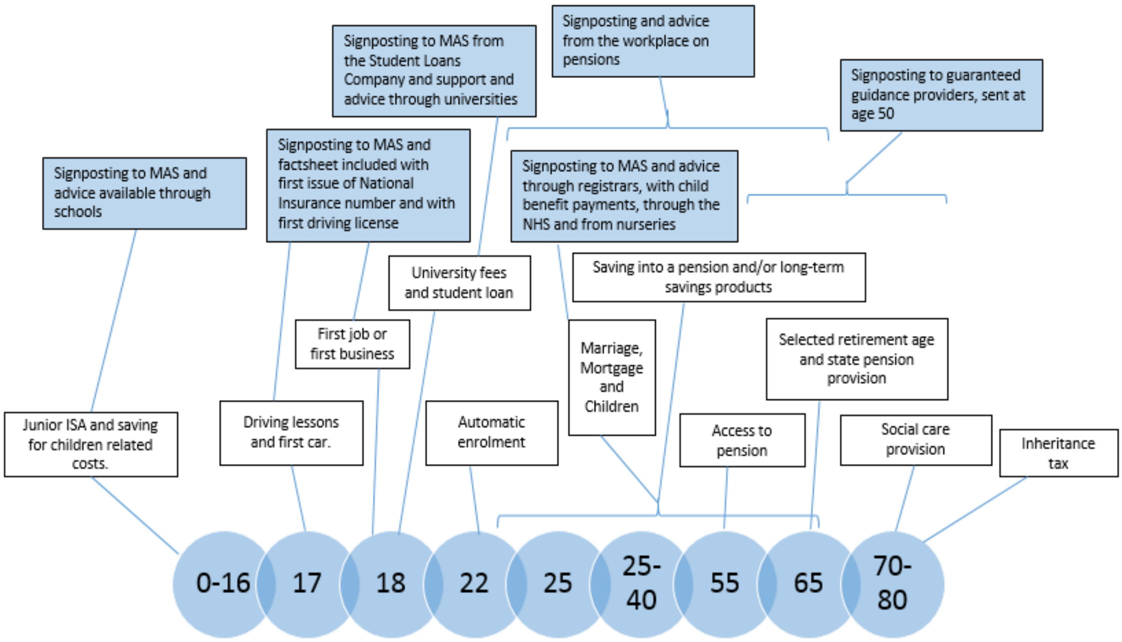
39.14. **Review how public bodies can leverage opportunities to signpost and nudge people towards accessing advice at critical junctures in a person's life.**

Public bodies can play a role in signposting and nudging people toward guidance and advice at the key pinch points in the average person's life where a big financial decision or challenge will likely face them. By increasing consumer familiarity with guidance and advice services as early as possible, and nudging them toward it, we can help improve financial capability and outcomes later on in life.

There are already some instances of this signposting approach happening, for example with social care needs. Phase one of the Care Act 2014, which came into force in April 2015, provides a useful platform from which to improve access to advice. Under their new statutory duty, local authorities now have an obligation to signpost individuals requiring care to IFAs. The Best Practice Guidance developed by the Society of Later Life Advisers, in coordination with the adviser community, consumer groups and our members is useful in assisting local authorities in their triaging of individuals. But, based on anecdotal evidence, the effectiveness of this is inconsistent and varies from local authority to local authority.

There is clearly a role for all of us to play in raising awareness of the availability and value of advice. Government, public financial guidance providers, the public sector and businesses need to work together to ensure that people are aware advice is there for them when they will most likely need it.

Some examples of how a range of government and public bodies could potentially achieve this are included in the diagram below.



The use of behavioural insights in any approach to signposting will be important. The government has a significant amount of experience and resource in utilising behaviourally trialled methods, materials and communications. It should explore the potential for deploying this at critical junctures, such as those identified above, to help signpost and nudge people toward accessing guidance and advice services, such as the MAS and guaranteed guidance providers.

40. What steps should we take to ensure that competition in the advice markets and related financial services markets is not distorted and works to deliver good consumer outcomes as a result of any proposed changes?

40.1. There is a risk that the proposals and actions from this Review could impact and distort competition in the advice market, as well as the specific product markets on which its focus is drawn.

40.2. The most effective way to prevent any distortive competitive advantage or disadvantage is to ensure that the Competition Markets Authority and FCA play a central role in assessing the Reviews recommendations, from as early a stage as possible. This should ensure that any potential competition issues are identified and resolved.

41. What steps should we take to ensure that the quality and standard of advice is appropriate as a result of any proposed changes?

41.1. The Review must seek a careful balance between removing supply side barriers to firms who wish to do more to help consumers, whilst ensuring that standards of consumer protection remain appropriate. In identifying the measures that we have outlined, we believe that levels of consumer protection can be kept intact.

Appendix One – Information collected for a Pension Wise session

- *Relevant information from the consumer about their accumulated pension pots includes information about:*

    - *the sum of money that will be available to exercise options in retirement*
    - *whether any guarantees apply*
    - *any benefits, exit fees and ongoing charges*
    - *any other relevant special features, restrictions, or conditions that apply, such as (for with-profits funds) any market value reduction conditions in place, and*
    - *any other information relevant to the exercise of the consumer's options.*

- *Relevant information about the consumer's financial and personal circumstances includes the following.*

    - *Financial information*
        - *spouse /partner's pension pots or benefits and other income*
        - *current and future sources of income*
        - *capital expectations*
        - *tax status*
        - *entitlement to state benefits (current and future)*
        - *home owner or renting*
        - *debt position*

    - *Personal circumstances*
        - *dependants*

- *spouse/partner*
- *state of health*
- *potential long-term care needs*
- *the consumer's plan and objectives for retirement, to identify retirement income needs*[44]

[44] FCA (April 2015) 'Standards for Designated Guidance Providers Instrument 2015', https://www.handbook.fca.org.uk/instrument/2015/FCA_2015_9.pdf

HM Treasury and Financial Conduct Authority – Financial Advice Market Review

Response by the Association of Business Recovery Professionals ('R3') to the call for input document issued by HM Treasury and the Financial Conduct Authority, October 2015

1. Introduction

R3 is the insolvency trade body for the UK insolvency profession. We represent the UK's insolvency practitioners and are the leading organisation for insolvency, restructuring and turnaround professionals in the UK. R3 represents insolvency practitioners working in firms of all sizes, from the global legal and accountancy firms through to smaller, local firms, as well as insolvency lawyers and other professionals working in the insolvency and restructuring profession. R3 promotes best practice and provides a detailed programme of courses, conferences and technical information.

Insolvency practitioners are highly regulated, licensed professionals and officers of the court and are experts in personal and corporate insolvency. They are the only professionals who are licensed to take formal insolvency appointments across all personal and corporate insolvency procedures under the Insolvency Act 1986. As such, they are able to offer a unique perspective on the UK's insolvency regime.

Insolvency practitioners play a vital role in providing financial advice to those in financial difficulty. In 2013-14, insolvency practitioners assisted more than 60,000 individuals through an insolvency procedure, advised more than 135,000 individuals, and started work on cases that will help individuals repay £5bn of debt to creditors within five years[1]. Insolvency is a vital part of the economic cycle and an important tool to help indebted individuals to 'get back on their feet'.

R3's interest in the call for input stems from our members' expertise in personal insolvency procedures and assisting financially indebted individuals. Our members have day-to-day experience of advising individuals facing financial distress, providing them with either pre-insolvency advice or advising them on and through the most appropriate personal insolvency procedure to help them deal with their debts. They are therefore well placed to offer evidence and recommendations based on their expertise and experiences of financial and debt advice.

[1] R3 Value of the Profession to the UK economy report (statistic from R3/Com Res member survey) (May 2015)

2. Executive summary

The financial struggles of people in England and Wales caused by the cost of living, and the high incidence of those living at the edge of their means, are well documented. Household debts have returned to their pre-financial crisis levels and an interest rate rise seemingly looms on the horizon. It is therefore unsurprising that concerns about money, in particular debts, are also rife. R3's most recent Personal Debt Snapshot[2] found that close to half (41%) of British adults are at least "fairly" worried about their current level of debt, and 38% say that they struggle to get to payday.

The number of statutory personal insolvency procedures in England and Wales rapidly increased during the first decade of the century. In 2001, there were fewer than 30,000 insolvencies; by their peak in 2010, numbers had more than quadrupled to over 130,000; in 2014, nearly 100,000 people in England and Wales entered into a formal insolvency procedure. However, whilst the fall in personal insolvency numbers is positive, there are potentially thousands more people unaccounted for, either in informal repayment plans or continuing to struggle on without addressing their debts. The official insolvency numbers therefore do not tell the full story about financial indebtedness, personal insolvency and the demand for debt advice in the UK.

Against the backdrop of the high levels of debt problems being experienced by the British public, R3 believes that it is vital that the debt advice and personal insolvency systems operate at their optimum – so that comprehensive advice can be given to help financially distressed people enter into the most appropriate debt relief solution for their circumstances (whether informal or statutory), and so that creditors can hope to receive the maximum repayment of debts as far as possible.

However, R3 is concerned that, for a variety of reasons, there are still individuals in financial difficulty who are entering debt relief solutions that are not appropriate for their circumstances. R3 is also concerned about some aspects of the quality and range of financial advice being given to people with debt problems, as well as the current lack of provision of an environment in which indebted individuals are able to make important decisions about how to resolve their financial issues.

Our response to the call for input identifies a number of barriers to debt advice and financial assistance for indebted individuals and makes recommendations to reduce them, including:

- reducing the stigma of insolvency so that individuals consider all debt relief options when dealing with their debts;

- giving individuals 'breathing space' from creditor action to give them time to seek comprehensive debt advice before entering a debt relief solution;

[2] R3/Com Res Personal Debt Snapshot Wave 17 report 'Attitudes to insolvency and the impact of a potential rise in interest rates' - October 2015 https://www.r3.org.uk/media/documents/policy/research_reports/personal_debt_snap/R3_Personal_Debt_Snapshot_Wave_17.pdf

- reviewing the scope of the Financial Conduct Authority (FCA) authorisation regime to prevent a reduction in the availability of expert debt advice from insolvency practitioners;

- allowing individuals to pay the £705 bankruptcy fee in instalments once they have entered bankruptcy; and

- recording the number and value of Debt Management Plans (DMPs) to understand the true scale of personal insolvency and the demand for debt advice and assistance in the UK.

We have focused our detailed response below on those questions in the call for input where we can provide answers based on our members' expertise, including their experience of the personal insolvency market and in assisting indebted individuals with their financial difficulties. Questions which are unanswered reflect the fact that we have no opinion on the point at issue.

3. Call for input questions

Question 1 – do people with protected characteristics under the Equalities Act 2010, or any consumers in vulnerable circumstances, have particular needs for financial advice or difficulty finding and obtaining that advice?

No view

Question 2 – do you have any thoughts on how different forms of financial advice could be categorised and described?

No view

Question 3 – What comments do you have on consumer demand for professional financial advice?

Seeking professional debt advice is often the best way for indebted individuals to begin to deal with their debt problems. Given the sensitive and emotive nature of personal finance problems, it is perhaps understandable that many people might be reluctant to talk to someone, even a professional, about their problems.

However, R3 is concerned that delays in taking action to address debt problems can mean that debts will continue to mount and will become more difficult to deal with, perhaps even reducing the options available to help an individual deal with their debts. While debt can be difficult to talk about with a stranger, time is often of the essence and seeking advice from someone sooner rather than later is an important step towards dealing with money problems.

R3's Personal Debt Snapshot research in March 2014[3] asked British adults (who said that they had debt worries) whom they would approach for help with any personal debt worries: 42% of British adults with

[3] R3/Com Res Personal Debt Snapshot Wave 13 report 'Are personal finances taking a turn for the worse?' – March 2014

debt worries indicated that they would most likely approach a family member for help, followed by 24% who said that they would approach a voluntary organisation or charity.

In terms of professional forms of advice, only 16% of those British adults with debt worries who responded to the survey said that they would approach a financial adviser and 16% said that they would approach a friend. Just 3% of British adults would approach an insolvency practitioner for advice and 21% of British adults wouldn't know who to turn to for advice with their debt worries.

R3 is concerned that so relatively few people would seek the free, expert advice that is available and that relatively so many British adults wouldn't know who to turn to at all. The vast majority of insolvency practitioners will offer an hour's worth of professional advice for free, while many debt advice agencies and charities employee qualified advisers who are also able to provide debt advice. R3 believes that more work is required to break down the barriers that deter people from getting the right advice at the right time and therefore finding the right debt solution for their circumstances, including more publicity and positive advertising to educate individuals about their options for seeking debt advice.

Question 4 – do you have any comments or evidence on the level of demand for advice from sources other than professional advisers?

See response to Question 3 above regarding R3 research on where individuals with debt worries may seek debt advice.

In terms of sources of advice other than professional advisers, R3 has serious concerns about the provision of debt and financial advice by unregulated organisations or advisers, who may not be regulated by either the FCA or an insolvency regulatory body.

The marketing literature (both hard copy, telephone-based contact and online) of these unregulated organisations or individuals often targets indebted individuals, company directors and business owners who are already in insolvency procedures, or who are considering entering an insolvency process in order to resolve their financial situation. This marketing is done with a view to encouraging the individual or directors to opt for a different insolvency procedure organised by the unregulated advisors, which ultimately may not be in the company's or the individual's interests.

R3 is also aware that such unregulated organisations or individuals issue literature which seeks to dissuade directors and indebted individuals from taking professional debt and insolvency advice from insolvency practitioners, because an insolvency practitioner owes a duty to all creditors in an insolvency situation, whereas the unregulated organisation or individual claims to only work for (or owe a "duty" to) the director or indebted individual.

Business owners, company directors and individuals with financial difficulties are particularly vulnerable to this type of marketing, as they may not have the financial acumen to understand the risks of taking advice from unregulated organisations. Unlicensed advisers and organisations often claim to be able to

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https://www.r3.org.uk/media/documents/policy/research_reports/personal_debt_snap/R3_Personal_Debt_Snapshot_Wave_13.pdf remove all of the worry of a financial situation and to help individuals or company directors avoid legal duties that they may owe. R3 is concerned that by taking financial or debt advice from an unregulated adviser (often at a fee), an individual or director may receive misleading or incorrect advice about how to resolve their financial problems and the duties or responsibilities that they owe to their creditors or their business. This can make their financial situation far worse and may even result in indebted individuals or company directors breaking the law.

The issue of advice given by such unregulated organisations to indebted individuals, company directors and business owners has been a perennial problem which R3 continually raises with regulators, including the Insolvency Service, the FCA and other organisations, such as the Advertising Standards Authority. Whilst R3 is pleased that the Insolvency Service has taken action in recent years to wind up a number of such unregulated organisations in the public interest, R3 would like to see more such actions being taken via a coordinated approach across government regulatory bodies in order to protect indebted individuals and directors from misleading or incorrect debt and financial advice.

Question 5 – do you have any comments or evidence on the types of financial needs for which consumers may seek advice?

We agree with the analysis in the call for input that different consumers have different financial needs according to a range of factors, including their stage in life, financial sophistication, income, debts and wealth. We also agree with the analysis of 'coping with debts' and debt advice as forming one of the more complex areas for which people may need advice, particularly given the mix of financial, personal and social factors involved.

Access to full, high quality debt advice can become a necessity for any person at any stage in their life. The feelings of 'being in debt' or 'coping with debts' are often subjective to each person – one person may have relatively high levels of debt but be able to service them, and therefore 'cope' with their debts or at least will not feel anxious about them; another person may have comparatively modest levels of debt and be able to service their debts adequately, but still feel anxious or concerned about 'being in debt'.

The subjectivity of feeling 'in debt' and the drivers leading people to seek debt advice can also vary across different age groups and levels of debt. R3's research from November 2014[4] found the following breakdown of debt worries across different age groups and the average level of debt across those age groups – it is noticeable, for example, that whilst individuals within the lowest age category (18-24) had one of the lowest average debt levels, they are one of the age groups where debt worries are the highest, highlighting the subjectivity and personal nature of feeling 'in debt' and therefore the unpredictability of the stage in life when an individual may decide that they require debt advice. The

[4] R3/Com Res Personal Debt Snapshot Wave 15 report 'Christmas debt' – November 2014 https://www.r3.org.uk/media/documents/policy/research_reports/personal_debt_snap/R3_Personal_Debt_Snapshot_Wave_15.pdf

heightened level of concerns over debt could also be linked to the fact that people aged 18 to 24 are likely to earn less than those in the 45 to 55 age bracket.

Age range	Worried about debt	Average debt (exc. Mortgages and student debt)
18-24	55%	£ 1,660
25-34	55%	£ 3,801
35-44	58%	£ 4,802
45-54	57%	£ 4,595
55-64	34%	£ 2,813
65+	16%	£ 1,606
All	44%	£ 3,232

Due to the subjective nature of feeling 'in debt' and the fact that debt concerns can be made more acute by different life events at different stages of life, it is therefore vitally important that full debt advice and adequate access to it across the paid-for and free advice channels remains a priority for government and those involved in the debt advice and personal insolvency sectors.

Question 6 – is the FCA Spotlight segmentation model useful for exploring consumers' advice needs?

No view

Question 7 – do you have any observations on the segments and whether any should be the particular focus in the Review?

No view

Question 8 – do you have any comments or evidence on the impact that consumer wealth and income has on demand for advice?

As mentioned previously, the vast majority of insolvency practitioners offer an hour's advice for free, in addition to advice available from debt advice agencies and charities.

Question 9 – do you have any comments or evidence on why consumers do not seek advice?

R3's research and the experiences of our members suggest that there are a number of barriers to consumers seeking debt advice or accessing formal personal insolvency procedures. These include perception and understanding of personal insolvency processes; timeliness of advice; the need for a 'breathing space' provision in England and Wales; an inability to afford bankruptcy; and the need to understand the full debt advice landscape, as set out in paragraphs a) to e) below.

a) Perception and understanding of personal insolvency processes

The first is the perception of a social stigma associated with entering a formal personal insolvency procedure. Research by R3 in August 2015[5] asked approximately 2,000 British adults about their views on insolvency. The findings were mixed – whilst it is positive to see that approximately 50% of adults believe that the social stigma of insolvency is less than it was a decade ago, almost half (48%) believe that there is still a stigma associated with insolvency.

Our research from August 2015 also indicates that only three-in-ten Britons (29%) agree that they have a good understanding of what happens when an individual enters into an insolvency procedure. There are also differing opinions on the reasons why an individual might enter insolvency – half of British adults agree that entering an insolvency procedure can be an opportunity for a fresh start, but just over a third of Britons agree that entering an insolvency procedure is an easy way out from having to repay debts (37%) and the same proportion agree that insolvencies are more likely to occur because of an individual's reckless spending than because of a factor outside of their control, such as job loss (37%).

All of these statistics paint a worrying picture given that, where appropriate, one of the three formal personal insolvency processes (bankruptcy, an Individual Voluntary Arrangement or a Debt Relief Order) may be the most appropriate method for an individual to sort out their financial problems and return to financial health.

R3 is concerned that 'mind-set' issues such as fear, shame or even over-optimism, impact the number of individuals who decide to seek advice on personal insolvency, or indeed who choose to enter a personal insolvency procedure, even where it the most appropriate way to deal with their debts. By way of example, in R3's January 2014 member survey, 45% of insolvency practitioners said that they have seen an individual in a Debt Management Plan who should have been in a formal insolvency procedure instead and who, therefore, may not have received appropriate advice about how to resolve their financial situation or, based on their perception of the stigma around formal insolvency, decided to opt for the 'less formal' option of a Debt Management Plan.

Financial education around how to properly deal with debt problems by seeking appropriate debt advice needs to be improved, as does education about the personal insolvency options available and what is involved in each one. It should not be the case that people do not consider the insolvency options available to them because they are not clear about what is involved.

R3 believes that the insolvency profession, debt advice sector and government should work together to find ways to reduce the barriers that deter individuals from seeking advice; to reduce the stigma of insolvency; and to improve individuals' understanding of what an insolvency process entails and might 'mean' for them. A coordinated effort across the sector would help to ensure that individuals have the opportunity to enter the most appropriate debt relief solution for their circumstances.

[5] R3/Com Res Personal Debt Snapshot report 'Attitudes to insolvency and the impact of a potential rise in interest rates' - August 2015
https://www.r3.org.uk/media/documents/policy/research_reports/personal_debt_snap/R3_Personal_Debt_Snapshot_Wave_17.pdf

b) Timeliness of seeking debt advice

R3 is also concerned that indebted individuals may not seek debt advice soon enough, thereby making their financial situation worse in the long run.

In January 2014, an R3 member survey asked insolvency practitioners how long it takes an individual to seek debt advice. The research found that:

- 49% of R3 members said that it takes an individual more than a year from first showing signs of financial distress to approach them for advice.

- Just 5% of R3 members said that they are typically approached for advice less than three months from when an individual first shows signs of financial distress.

Delays in individuals seeking debt advice means that debts can mount unnecessarily, reducing that individual's options and in some cases leaving little alternative but a formal insolvency process. A delay in obtaining debt advice can also leave financially struggling individuals open to creditor pressure, which may cause rushed decisions about their options and how to resolve their financial situation. There is currently no provision in England and Wales for an unpressurised environment in which individuals can seek advice on how to deal with their debts free from the worry about creditor action; protection from creditor debt collection and enforcement action is only available once a formal insolvency process has been entered into (see section (c) below for R3's recommendation in this area).

c) The need for 'breathing space' from creditor enforcement

Individuals facing financial difficulties will usually be provided with various notice periods before a creditor can seek to collect or enforce a debt; these vary in length depending on the kind of debt involved – for example, under the Mortgage Repossession Protocol, a mortgage lender must give a debtor six months' notice before they can enforce the security over their house.

In addition, the FCA also enforces a robust regime governing how creditors can collect or enforce debts, with the ultimate aim of treating consumers fairly ('TCF') throughout the debt collection process.

Nevertheless, despite the existence of these notice periods, the FCA's TCF policies and the range of formal and informal debt solutions, R3 is concerned that financially distressed individuals may not always access appropriate debt advice or the debt relief solution that is best suited to their needs. This may be due to a combination of poor or incomplete debt advice, and a sense of panic that pushes them to either accept the first solution offered to them (even where it may not be the most appropriate solution for their needs) or, worse still, to 'bury their head in the sand', not seek advice and therefore do nothing at all.

In June 2015, R3 published a paper[6] calling on government to introduce a 28 day 'breathing space' moratorium for individuals in debt. In summary, R3's proposals are:

- A person in financial distress should be able to apply to the Insolvency Service through a qualified advisor for a 28 day moratorium, during which no creditor action would be possible and repayments, interest and charges would be frozen. During this period, it would be mandatory for the individual to seek debt advice from an impartial, qualified advisor in order to devise an appropriate plan to deal with their debts, whether via a formal personal insolvency process or an informal repayment arrangement with creditors.

- It should be mandatory that the availability of this moratorium be advised to every financially distressed individual (whether by a solution-provider, a charity, an insolvency practitioner, the Court or the Insolvency Service) before that individual is advised to enter a particular debt relief solution or a bankruptcy order is made. It would not be mandatory for all individuals to make use of the moratorium – this would be a matter of choice for each person.

- Creditors would be notified that a moratorium has been granted, and it also would be registered on a central register. After the 28 day period has expired, the debtor will be subject to creditor action once again (unless he/she has entered a debt solution which prohibits this or makes it redundant), and the individual's name will be removed from the register.

- Only one moratorium should be available per individual per year, to avoid it being used as a tool to avoid repaying their debts (rather than facilitating advice and entry into a debt solution).

This moratorium should be seen as a last resort, usually after the indebted individual has already received numerous notices of debt collection and enforcement, and would be a final opportunity to seek professional debt advice in an unpressurised environment. This would be with a view to entering the most appropriate debt solution for their financial situation, in a considered and informed manner.

R3's 'breathing space' proposal would:

- give individuals time to get full, impartial advice about the range of debt solutions available to them;

- enable people to make non-pressurised decisions about how to resolve their financial problems by providing the right environment, free from creditor pressure, in which they can find and enter the most appropriate solution for their needs; and

- help achieve a balanced and fairer outcome for both individuals and their creditors.

[6] R3 paper - 'Breathing space' from creditor enforcement - https://www.r3.org.uk/media/documents/policy/policy_papers/personal_insolvency/R3%20Breathing%20Space%20from%20Creditor%20Enforcement%20JUNE%202015.pdf

The last Government announced that HM Treasury and the Insolvency Service would carry out a review into the legal framework for debt administration in England and Wales, including the concept of 'breathing space' and we would urge government to proceed with this review as soon as possible.

d) Inability to afford to enter bankruptcy

Bankruptcy is a formal insolvency procedure that is designed to provide a balance between debt repayments, where possible, and debt write-off in order to help indebted individuals deal with their debts and return to good financial health. The number of bankruptcies has fallen in recent years.

However, around 70% of R3 members (R3 membership survey results from January 2014) have seen an individual unable to go bankrupt because they could not afford to pay the £705 fee (which covers a court fee and the government Official Receiver's case administration fee) to enter bankruptcy; 59% of those members said that the individual in question had subsequently not dealt with their debts, which therefore continued to rise.

To reduce this barrier to entering bankruptcy, R3 has recommended that the £705 fee to enter bankruptcy can be paid in instalments after an individual has entered bankruptcy. The individual will not be 'discharged' from bankruptcy until the fee is paid. In this way, the individual would benefit from the protection from creditors under the bankruptcy order, whilst ensuring that they pay the fee required to administer their case.

Whilst the government has agreed that in future an individual could pay the fee in instalments, the fee would still be an 'upfront' payment: the individual would not be able to enter bankruptcy *until* the final instalment has been paid. R3 is concerned that it could take individuals many months, if not years in some cases, to pay those instalments, whilst at the same time their debts will continue to increase and they will have no protection from creditors' debt collection and enforcement procedures. As a consequence, a significant barrier to entry into bankruptcy for those individuals who may need it most would remain.

e) Wider market issues – the need to understand the full debt advice landscape

When considering personal insolvency and debt advice, R3 believes that it is crucial to look at non-statutory Debt Management Plans (DMPs) in addition to formal, statutory personal insolvency procedures.

Although the number of statutory personal insolvency proceedings is falling, they only make up a fraction of the procedures used to deal with personal debt problems: R3's November 2014 R3/ComRes Personal Debt Snapshot[7] found an equivalent of over two million people who said that they were in

[7] R3/Com Res Personal Debt Snapshot Wave 15 report 'Christmas debt' – November 2014 https://www.r3.org.uk/media/documents/policy/research_reports/personal_debt_snap/R3_Personal_Debt_Snapshot_Wave_15.pdf

some sort of debt management plan (whether formal or informal); however, at the end of 2013, there were only approximately 250,000 people in a formal insolvency procedure.

DMPs have a role to play within the suite of debt relief options to assist individuals to deal with their debts; in some situations, it might be more appropriate for someone to deal with their debts using a non-statutory DMP than it would be for them to enter a statutory insolvency procedure.

It is worth noting, however, that there are a number of key differences between DMPs and statutory procedures. For example, DMPs carry no statutory protection for individuals from creditor action, nor do they bind creditors who are not party to the plan. As a result, DMPs can be undermined in a way statutory insolvency procedures cannot. In a formal procedure, creditors' claims are dealt with in an order of priority set by statute; in a DMP, there is no such order of priority and creditors can continue to charge interest and charges on the debts owed.

While R3 recognises that a non-statutory procedure might be appropriate in some circumstances (and a formal procedure might be inappropriate), we are concerned about the risk that some individuals enter a non-statutory procedure that is inappropriate because they might not be fully aware of all their debt relief options for the reasons we have previously elaborated, or because of the perceived stigma surrounding formal insolvency solutions (and the perceived 'informality' of DMPs and non-statutory solutions).

Whilst the recent introduction of FCA regulation is a welcome effort to tackle concerns around the quality of DMPs and the standard of advice provided to individuals by DMP providers, R3 remains concerned that the number of DMPs is not officially recorded. This makes it very difficult to establish the true scale of personal insolvency, the scale of DMP use and the number of people in need of debt advice in the UK. Consequently, it is difficult for policymakers to put together appropriate recommendations for improving debt and insolvency advice. The fact that the number of DMPs is not recorded poses a number of questions:

- What is the full nature of the insolvency and debt landscape in the UK?
- Who is using a DMP and why?
- Are individuals using DMPs instead of formal insolvency procedures; and is the falling number of statutory insolvency procedures misleading?

DMPs are very much on the FCA's agenda and R3 welcomes recent regulatory intervention. However, in view of the number of individuals estimated to be repaying debts through a DMP, this is very much an area the government and FCA should continue to monitor closely and R3 calls on the government to work with the FCA to record and publish statistics on the number, value and outcomes of DMPs as soon as possible.

Question 10 – do you have any information about the supply of financial advice that we should take into account in our review?

R3’s response to this question relates to the supply of debt advice by insolvency practitioners where such advice crosses over into the FCA authorisation regime.

R3 believes that the introduction of the FCA authorisation regime for regulated consumer credit activities (which includes debt advice related to consumer credit) in April 2014 was a welcome reform to tackle poor debt advice and to raise standards within the debt management market.

Under the new FCA regime, insolvency practitioners do not require FCA authorisation for any debt-related activities when they have been formally appointed as an office holder in a bankruptcy or Individual Voluntary Arrangement. Insolvency practitioners also have the benefit of an exclusion where they are ‘acting in reasonable contemplation of appointment as an insolvency practitioner’ (i.e. as a trustee in bankruptcy or as a supervisor of a voluntary arrangement). This exclusion was intended to cover cases where an insolvency practitioner provides debt advice to an individual about their debts that fall within the consumer credit regime in order to assist them in understanding and deciding upon the debt relief solution most appropriate for their circumstances.

Unfortunately, the FCA interprets this exclusion as ending the moment that it becomes apparent that the insolvency practitioner can no longer be ‘in reasonable contemplation of an appointment as an insolvency practitioner’. As such, having ascertained the facts of the individual’s financial situation, if it becomes evident that a debt solution other than an Individual Voluntary Arrangement (and possibly a bankruptcy) is appropriate, the insolvency practitioner must immediately stop giving debt advice unless they are authorised to do so by the FCA.

Insolvency practitioners are members of a heavily regulated profession; it takes several years to train as an insolvency practitioner (the average age for qualification is 33) and once qualified, practitioners are closely monitored by regulatory bodies. Providing comprehensive debt advice and information about possible debt relief solutions (including pre-insolvency advice) are necessary and fundamental parts of their role.

Requiring insolvency practitioners to hold FCA authorisation in order to give consumer credit advice is, in R3’s view, an unnecessary additional burden and cost, particularly for smaller insolvency firms, and risks insolvency practitioners being over-regulated and answerable to two separate regimes, one for consumer credit and one for insolvency. Smaller insolvency firms may decide that this burden of regulation is too much and therefore choose not to be FCA-authorised; this will reduce the choice and supply of debt advice from smaller ‘High Street’ firms available to individuals, creating yet another barrier to individuals seeking debt advice. R3’s recent membership survey from October 2015 found that 9% of insolvency practitioners who have provided personal insolvency advice have already stopped giving personal finance advice since FCA authorisation was introduced.

The FCA’s interpretation of the exclusion is even more unhelpful from the individual’s point of view. It is rarely obvious from the outset that an individual needs to enter a formal insolvency procedure; there will need to be a period of evidence gathering and review by the insolvency practitioner, even in the simplest of cases, before full debt advice can be given. Once the evidence is gathered and assessed, the insolvency practitioner will have a clear idea of the advice that should be given and therefore, whether the exclusion applies. However, if the practitioner believes that the most appropriate advice is for the individual to enter an informal debt relief procedure or any other procedure other than an Individual Voluntary Arrangement or bankruptcy, but the insolvency practitioner lacks FCA authorisation, the practitioner must not give the advice and the individual will have to go elsewhere for debt advice. At best, this may force individuals to start the process of seeking debt advice all over again, wasting precious time; at worst, they will be dissuaded from seeking any further advice and will not deal with their financial situation.

For the reasons elaborated above, in R3's view, it would be far more sensible for the FCA to interpret the exclusion as applying to cases where, *at the outset*, the insolvency practitioner was in reasonable contemplation of an insolvency appointment. R3 believes that a review of this issue by the FCA and HM Treasury is needed as a matter of urgency – a reinterpretation of the exclusion, or if necessary, an amendment to the Statutory Instrument, would resolve the matter.

Question 11 – do you have any comments or evidence about the recent shift away from sales based on professional advice, and the reasons for this shift?

No view

Question 12 – do you have any comments or evidence about the role of new and emerging technology in delivering advice?

No view

Question 13 – do you have any comments on how we look at the economics of supplying advice?

As noted in the call for input document, the cost of providing advice can vary significantly depending on the complexity of the advice and how personalised it is. Debt advice, by its very nature, is personal to the circumstances of the individual seeking advice and therefore requires specific personalisation by the debt adviser in order to provide comprehensive, meaningful advice to the individual about the debt relief options that are available to them.

However, as noted in our response to Question 10, R3 is very concerned that as a result of the FCA's interpretation of the exclusion for insolvency practitioners from requiring FCA authorisation, smaller insolvency firms may decide that the cost of this additional regulatory burden is too much and may therefore choose not to be FCA-authorised. This would consequently reduce the choice and supply of debt advice available to individuals. It is worth noting that insolvency practitioners based in smaller firms make up nearly 40% of R3's membership and are therefore a vital part of the insolvency profession and debt advice market, offering in most cases debt advice to financially distressed individuals within their local communities across the UK.

In R3's view, the FCA's stance runs counter to government's deregulation agenda; risks restricting access to professional debt advice for those who need it most; and undermines the good work the government is undertaking as part of the Financial Advice Market Review.

Question 14 – do you have any comments on the different ways that firms do or could cover the cost of giving advice (through revenue generation or other means)? Do you have any evidence on the nature and levels of costs and revenues associated with different advice models?

No view

Question 15 – which consumer segments are economic to serve given the cost of supplying advice?

No view

Question 16 – do you have any comments on the barriers faced by firms providing advice?

Yes – please see our responses to Questions 10 and 13 for our concerns about the regulatory cost burden of FCA authorisation on insolvency firms providing debt advice.

Question 17 – what do you understand to be an advice gap?

As identified in the call for input document, in the context of debt advice and personal insolvency, we believe an advice gap to be the situation where individuals cannot obtain the debt advice that they want or need.

We have already elaborated in our response to Question 9 our concerns about the barriers to consumers seeking debt advice or accessing formal personal insolvency procedures. These include perception and understanding of personal insolvency processes; timeliness of advice; the need for a 'breathing space' provision in England and Wales; an inability to afford bankruptcy; and the need to understand the full debt advice landscape. In our view, these factors, alone or in combination, are causes of an advice gap in relation to debt and personal insolvency advice.

We are also concerned that, as elaborated in our response to Question 10, the requirement for insolvency firms to be FCA authorised in order to give debt advice as applicable to consumer credit will further exacerbate the debt advice gap, as smaller insolvency firms in particular may decide that the burden of regulation is too much and therefore choose not to be FCA-authorised, thereby reducing the choice and supply of debt advice from smaller 'High Street' firms that is available to individuals.

Question 18 – to what extent does a lack of demand for advice reflect an advice gap?

We do not believe that there is a lack of demand in the context of debt advice.

Question 19 – where do you consider there to be advice gaps?

Please refer to our response to Question 17 above.

Question 20 – do you have any evidence to support the existence of these gaps?

Please refer to our response to Question 9 for evidence in relation to debt advice gaps and the barriers to individuals seeking debt advice and accessing personal insolvency procedures.

Question 21 – which advice gaps are most important for the Review to address?

R3 believes that the debt advice gap as elaborated in response to previous questions requires addressing as a priority, in particular the unintended consequence that insolvency firms may decide not to offer debt advice in future, thereby making the advice gap even larger, caused by the requirement for insolvency practitioners to be FCA authorised to give consumer credit debt advice.

Question 22 – do you agree that we should focus our initial work on advice in relation to investing, saving into a pension and taking an income in retirement?

Whilst the areas identified in the question are undoubtedly important, we believe for the reasons set out in our responses to previous questions that focus should also be given to the publicity of available sources of debt advice; assisting individuals in understanding the suite of debt relief options available to them; the provision of, and access to, high quality debt advice to those individuals who need it most; and the reduction in the debt advice gap.

Question 23 – do you agree we should focus our initial work on consumers with some money but without significant wealth? What exact income/wealth thresholds should we use to determine which consumers we will focus on?

No view

Question 24 – are there any aspects of the current regulatory framework that could be simplified so that it is better understood and achieves its objectives in a more proportionate manner?

No view

Question 25 – are there aspects of the EU legislation and its implementation in the UK that could potentially be revised to enable the UK advice market to work better?

No view

Question 26 – what can be learned from previous initiatives to improve consumer engagement with financial services?

No view

Question 27 – are there any approaches to the regulation of advice in other jurisdictions from which we could learn?

No view

Question 28 – what steps can be taken to address behavioural biases that limit consumer engagement without face-to-face advice?

No view

Question 29 – to what extent might the different types of safe harbour described above address the advice gap through the increased incentive to supply advice?

No view

Question 30 – which areas of the regulatory regime would benefit most from a safe harbour, and what liabilities should a safe harbour address?

No view

Question 31 – what steps could be taken to ensure that a safe harbour includes an appropriate level of consumer protection?

No view

Question 32 – do you have any evidence that absence of a longstop is leading to an advice gap?

No view

Question 33 – do you have evidence that the absence of a longstop has led to a competition problem in the advice market e.g. is this leading to barriers to entry and exit for advisory firms?

No view

Question 34 – do you have any comments about the benefits to consumers of the availability of redress for long-term advice?

No view

Question 35 – do you have any comments or suggestions for an alternative approach in order to achieve an appropriate level of protection for consumers?

No view

Question 36 – do you have any comments on the extent to which firms are able to provide consistent automated advice at low cost? Are you aware of any examples of this, either in the UK or other jurisdictions?

No view

Question 37 – what steps could we take to address any barriers to digital innovation and aid the development of automated advice models?

No view

Question 38 – what do you consider to be the main consumer considerations relating to automated advice?

No view

Question 39 – what are the main options to address the advice gaps you have identified?

No view

Question 40 – what steps should we take to ensure that competition in the advice markets and related financial services markets is not distorted and works to deliver good consumer outcomes as a result of any proposed changes?

No view

Question 41 – what steps should we take to ensure that the quality and standard of advice is appropriate as a result of any proposed changes?

No view

We would be happy to discuss any of the points raised in this response in greater detail if it would be of assistance

R3, Association of Business Recovery Professionals
21 December 2015

Financial Advice Market Review

The AIC's response to the FAMR discussion paper

The Association of Investment Companies (AIC) is the trade association for the closed-ended investment company sector, representing 350 investment companies with £120bn of assets under management. Investment companies are closed-ended collective investment funds whose shares are publicly traded, usually on the main market of the London Stock Exchange. They invest in a broad range of assets including listed equity, unquoted shares of SMEs, property infrastructure and debt (including business to business loans). Investment company shares have been available to investors for almost 150 years and have served them well in that time.

The Financial Advice Market Review (FAMR)

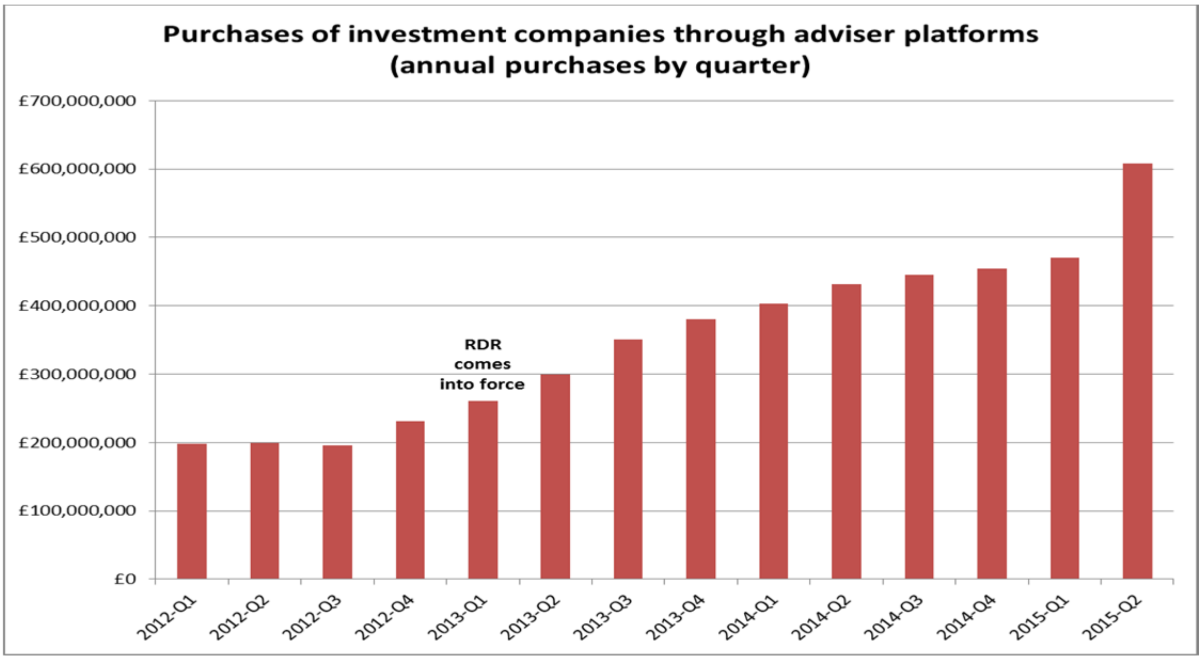
FAMR is being considered at a time of rapid change for retail distribution and when consumers are taking greater responsibility for financial decisions such as pension provision. FAMR can provide an opportunity to widen access to financial services for those who are not engaged in the market. The AIC believes that greater access to information, guidance and advice will be of benefit to consumers. It will increase awareness of products such as investment company shares that can offer savers good long-term performance. It may also help to develop a wider culture of saving in the UK.

Successful reform

Regulatory reform can deliver benefits where it is correctly targeted. The RDR introduced major changes to the advised distribution of investment products as commission was ended. Investment companies have typically not paid commission to advisers. Prior to RDR, they were at a considerable disadvantage when competing with other products that paid commission. The AIC is a strong supporter of RDR which it believes is benefiting consumers by ending a source of bias within the retail market. Consumers are also benefiting from a raised standard of advice from better qualified advisers due to RDR.

The RDR has provided a boost to the distribution of investment company shares. Our data indicates that the number of adviser and wealth management companies purchasing their shares via adviser platforms has grown from 590 in Q4 2012 (ie the last quarter before the start of RDR) to 1,086 in Q2 2015. Purchases of investment company shares through such platforms has grown from £70.6m in Q4 2012 to £260.8m in Q2 2015.

The progress is shown in the following chart:



This provides only a partial view, as not all advisers purchase via platforms, so the AIC's data is not complete. However, it does indicate that there has been a material shift in the market. Whilst this increase is from a low base and there is still a long way to go, firms that had never purchased investment company shares in the past are beginning to do so now. It is unlikely that the investment needs of the clients of these firms has materially changed. The major variable has been the regulatory requirements of RDR and the removal of commission.

Since 2012 the AIC has provided training for around four thousand advisers to raise understanding of investment companies. Before RDR the appetite in the adviser sector for training about investment companies was limited. Now it has increased as advisers are aware that they need to take seriously the opportunities offered by investing in investment companies for their clients.

Consumers have benefited from the changes. The end of commission has produced a more even playing field for investment company shares. This has widened access to a product that is able to deliver higher long-term returns for consumers – see the table below.

	1 year	3 years	5 years	10 years
Investment companies	+3.0%	+35%	+56%	+123%
FTSE All-share	+3.0%	+28%	+41%	+86%
Unit trusts / OEICs	+3.2%	+23%	+31%	+79%

At 31 Oct 2015. AIC member investment companies share price total return. Unit trusts/OEICs bid-bid total return. (Source: Morningstar)

Core principles

FAMR will cover a wide range of products and services which are already governed by UK and EU regulation. If it is to achieve its goals, HMT and the FCA will need to consider how it can make access easier for consumers and give firms greater freedom to provide different types of service, within the constraints of existing rules. In order to achieve the goals, there needs to be clear principles to guide the work and ensure a consistent approach.

The AIC **recommends** that in developing FAMR, the FCA and HMT put the following principles at the centre of their work:

Reform should not dilute the changes introduced by RDR. RDR has brought significant benefits to consumers. It has established the principle that advised sales should not be influenced by commission. FAMR should not allow this principle to be eroded by opening the door to services that rely on such payments. Specifically:

- 'Independent advice' must continue to require looking at products across the whole of the market, including investment company shares.
- 'Restricted advice' should also remain free of commission payments.

Competition that benefits consumers. Consumers' interests will be best served by encouraging competition. FAMR should avoid distorting the market to favour particular categories of products. Whilst relatively straightforward products may be the right answer for many consumers, FAMR should not start with the presumption that all consumers should be directed towards a particular category of products.

Simplify the rules. FAMR should aim, where possible, to reduce the complexity of rules that govern distribution – particularly where the rules have created uncertainty, such as the boundaries between focused, simplified and restricted advice. This will make it easier for firms to design new products and services. Consumers will benefit from greater choice, and also greater availability of information and services.

Allowing consumers to choose. One of the findings in the Europe Economics report commissioned by the FCA was the rise in the number of consumers who are choosing to make their own decisions about investments. This has been aided by developments such as the growth of D2C platforms. FAMR should avoid putting any barriers in the way of those who make their own investment decisions.

FAMR should not be used as a way to restrict the range of products that are available to consumers. Regulatory interventions such as the restrictions on non-mainstream pooled investments (NMPIs) by the FCA have already narrowed the range of investments which may be available to investors. FAMR should ensure that consumers have access to information, guidance or advice that will enable them to make sensible decisions about investments.

Improving information for consumers. Enabling clear comparisons to be made between investment, annuity and insurance products will make it easier for consumers to make effective choices. Providing more standardised information and services should raise the confidence and understanding of consumers.

Permit the market to develop. FAMR is being developed at a time of rapid change in the distribution of retail financial products. It is impossible to predict how products and distribution models will change in the future. The outputs from FAMR therefore need to be flexible enough to allow for changes in the market, rather than constraining progress.

March 2016~~December 2015~~

To discuss the issues raised in this paper please contact:

Guy Rainbird, Public Affairs Director

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AMNT RESPONSE TO THE FCA/TREASURY CALL FOR INPUT TO THEIR FINANCIAL ADVICE MARKET REVIEW

Introduction

The Association of Member Nominated Trustees is an organisation run by and for member-nominated trustees, representatives and directors of pension schemes, both defined benefit and defined contribution, in both the public and private sector. Established in 2010, the Association now has about 500 members from occupational pension schemes with collective assets exceeding £600 billion. These pension schemes range in size from £6 million to around £45 billion.

The AMNT welcomes the opportunity to respond to the call jointly made in October by the Financial Conduct Authority and HM Treasury for input into their Financial Advice Market Review. We have responded only to those questions on which our members have communicated a view. Any reference below to Q followed by a number is to the question so numbered in that paper. Some answers, however, stray into the territory of questions not explicitly referenced.

Equality and Diversity Considerations

Q1 Old age and diversity are statutory protected characteristics which may occasion particular needs in the realm of financial advice. People's financial needs are in general becoming more complex rather than less. While this provides a range of choices which is very helpful to those equipped to make their choices in a fully considered manner, it is far from clear to AMNT members that the general level of cognitive ability brought to bear has kept pace, even if the level of it needed may have been lowered by improved delivery of information, *e.g.* by comparison websites. Old age and disability, moreover, tend to involve impaired cognitive ability; public policy might therefore look to limit the extent to which complex and far-reaching financial decisions are required of the aged (or of others with limited ability to understand advice in this area).

What do consumers need and want from financial advice?

Q2 We believe that it probably makes more sense to extend the range of people who understand what those within the industry means by the terms that have become established there, rather than to risk compounding any existing confusion by trying to impose a fresh categorisation.

QQ3 & 9 We shall confine our answer to the area of advice on pension and retirement options. Some of us were surprised by the relatively low percentage of respondents to the NMG Consulting survey on the impact of the Retail Distribution Review on the retail investment market who omitted to take professional advice principally because they were unwilling to pay an adviser fee. Our impression is that the percentage might be substantially higher in respect of those who face choices at the decumulation stage of their membership of an occupational pension scheme.

We have reports from AMNT members that many members of their schemes start from the position that, even if they are faced with a range of options, they should not have to pay for advice, that their pension is in the nature of a service that should be provided for them. If the contributions which they and their employers have paid do not cover such advice as might be necessary, then it ought in their view be provided by or, at the expense of, the sponsor or, to the extent that the requirement stems from public policy, by or at the expense of the

Government. This mind-set is particularly prevalent among those who have spent much of their working life building up rights to defined benefits for retirement.

In this context it is not helpful to building recognition of the value of advice, and of the appropriateness of paying for it individually, that advice should be mandatory and expensive in some circumstances where the member may be entirely convinced of the course he or she intends to take, irrespective of the advice so purchased. In general, AMNT members agree that hurdles should be placed in the way of scheme members surrendering guaranteed benefits for "flexible" benefits; but the statutory advice hurdle does not help the public repute of independent financial advisers.

Many AMNT members have a low opinion of the quality of financial advice that people get from financial advisers, however independent, and even at substantial cost. Research findings that pension scheme members think they could do at least as well without accessing paid-for advice do not necessarily imply that members think themselves skilled at choosing a course of action; they may imply that members think the choice is a lottery, with or without advice, so that saving the adviser fee is rational.

Such a perception will often be unfair. It needs, though, to get much more obviously and consistently unfair. That implies more training and more time spent per case, and/or a step change in the quality of interactive "robotic" advice. Neither of those advances is impossible, but nor is either cheap; if the community has a public policy interest in individuals getting decent advice, there needs to be a hard political look at how the community is going to secure it since it is very far from evident that it can be secured at a price that individuals can be persuaded to pay voluntarily.

Where are the advice gaps?

We are largely persuaded by the analysis set out in this section of the call for input.

What options are there to close the advice gap?

QQ29 *et seqq*. We are prepared to believe that lack of "safe harbours" might be a factor in making pensions advisers more reluctant to offer advice for fees that clients are willing to pay. We suspect, though, that a weightier factor is that there is so much work for advisers in the present climate that they must prioritise it and naturally do so in such a way as to favour clients with deeper pockets. It might be helpful in this context to encourage trustees or managers of pension schemes, and/or schemes' sponsors, to buy advice services for members in blocks, and maybe nudge them to do so by applying "safe harbour" provision to advice so provided; there would need, though, to be some safeguard against actual or perceived conflicts of interest between individual members on the one hand and the scheme as a whole or the sponsor(s) on the other.

Q41 Greater regulation of professional qualifications for independent financial advisers might be desirable, provided that emphasis was placed on continuous professional development. It would contribute to consumer trust. The extra costs might not be justified, though, unless they were rewarded not only by gains in quality of outcome, but also by a mitigation of professional indemnity insurance premiums.

Financial Advice Market Review
Aviva response to the Call for Input
December 2015

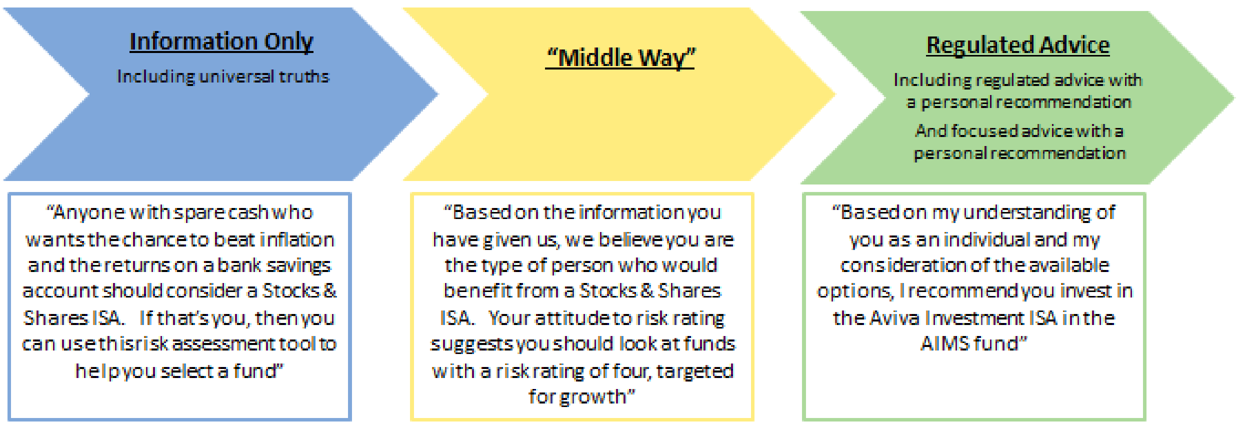
Aviva believes everyone should be able to easily access good quality advice, information and support to help them manage their finances more confidently. We believe advice can benefit everybody, and in ideal world everyone would be entitled to regular good quality personal advice. Although supply and cost factors make this unrealistic, the advice market can be restructured to deliver more help to more people and particularly, more help to mass market consumers.

Policy interventions should be based on the view that helping people to start to save and invest is a more desirable outcome than not saving at all. Categories of advice should be redesigned to align to consumer needs – for clear factual information about their position and their options; for guidance on a specific set of needs and products; and for full holistic advice on all their finances. Regulation of this advice should balance the need to increase awareness, demand and take up and consumer protection – perfection must not be the enemy of the good.

The Financial Advice Market Review can help achieve this and in considering the challenges within the Review we conclude there is no one 'silver bullet' solution and it will take a number of co-ordinated and complementary interventions to help close the gap. Our main recommendations to help make advice in all its forms more accessible for more of the UK population include:

1. **Increase the scope of Information Only services** to give more room for organisations to help customers understand and manage their financial circumstances themselves, and include the provision of 'universal truths' and rules of thumb agreed with regulators and government to help create social norms.

2. **Develop a middle way between information and regulated advice** to help consumers decide 'what should I do?' or 'what does it mean for me?' Consumers can be assigned to segments based on their personal circumstances and given a generalised recommendation specific to that segment - 'people like you should consider….' This could be designed by QCF level 4 staff, but operated by QCF level 3 staff within an agreed value for money framework.



3. **Reduce the costs of regulated advice and personal recommendations** in three ways: firstly, by extending the RDR limit on the time firms have to recoup the costs of advice services through adviser charging; secondly, by allowing regulated advice without a personal recommendation to be provided by QCF level 3 qualified staff; and thirdly, limiting financial redress to balance affordability with consumer protection, where, after an agreed period after the advice was given, liability is capped and compensation paid from a pooled fund.

4. **Support the role of technology to make advice more accessible** – the government and regulators should support work to develop pensions dashboards which could help reduce the total time and costs of advice; consumers should take responsibility for the accuracy of online fact finds; and references to wet signatures and paper documentation should be removed from financial regulations.

For more information or to discuss our response please contact

1. Do people with protected characteristics under the Equalities Act 2010, or any consumers in vulnerable circumstances, have particular needs for financial advice or difficulty finding and obtaining that advice?

Given the Review's prioritisation of advice in relation to pensions and retirement, it will be important to ensure any outcomes take account of the needs of vulnerable older consumers. With the increased use of drawdown more people will need to make more complex financial decisions about investments and pensions later in life than previously. For these consumers human interaction whether over the phone or face to face is crucial in building trust and understanding their needs.

Aviva believes everyone has the right to a conversation about their options – whether through their pension provider or third party agencies or charities. For this reason while online and automated services are an important and growing section of the advice market the Review should ensure customers always have the option to access human support and interaction.

2. Do you have any thoughts on how different forms of financial advice could be categorised and described?

For the purposes of this paper we take advice in the non-regulatory sense – to encompass all kinds of information, help, guidance, regulated advice and personal recommendations. Our experience helping customers across all product types confirms that they approach advice in this broad sense.

In preparing for the pensions freedoms Aviva carried out qualitative research with 15,000 consumers which covered perceptions of advice. There was a clear trend that the word 'advice' is used to span information, advice and guidance. However when asked to differentiate, there was a consensus among participants that 'advice' is personal to them, gives them the best options, and provides them with a recommendation or an opinion.

Our research found understanding of what constitutes regulated financial advice is non-existent and respondents were not sure who can provide regulated advice and who cannot. The definitions of advice (simplified, regulated, limited, focused and generic) remain confusing for both customers and the industry. The lack of clarity has created regulatory 'grey areas' which are inhibiting the development of guidance solutions for customers.

Aviva believes one of the main objectives of the Review should be to agree clear and sustainable definitions and regulations for the various categories of advice based on consumers' needs. We believe these needs can be met within a hierarchy of information only, guidance, and advice (including full regulated advice with a personal recommendation, and focused advice limited to the customer's needs in relation to one product type or life event.) We explore the divisions in more detail later in our response.

The review should also consider if there are existing models of advice that are not successfully used to meet a wide range of needs and to identify where it would be appropriate to remove these from the regulatory landscape to reduce complexity.

3. What comments do you have on consumer demand for professional financial advice?

It may be helpful to consider this question not just from consumers' demand for advice but also their need for advice – the latter will be much higher than the former and one of the objectives of the Review should be to close this gap.

We would also distinguish between consumers' demand or need for advice when taking out a new savings, investment, pension or insurance policy; and where they may need advice in helping to manage existing products. Our experience is that whilst many customers take advice in starting a new product, when managing existing products they are likely to come directly to a provider for information and advice. Essentially, the two fundamental issues that need to be addressed are:

- encouraging people to plan financially by bringing them to the market and;
- making it easier for people with existing savings, investment and insurance products to get the support they need and thereby encouraging more financially resilient consumers.

<u>New customers</u>

About 60% of our general insurance policies are taken out through an intermediary, and about 85% of our life products are intermediated – although this does not always include regulated advice. This figure ranges from 98% of bond sales, 95% group pensions, 91% individual pensions, approaching 70% for protection and approximately two thirds of annuity sales. Aviva's sales are generally more intermediated than the insurance market as a whole – ABI figures suggest across their membership, about 80% of purchases are intermediated (70% through independent advice and 10% through restricted channels).

The Review's call for input summarises consumer research into where people might seek professional advice, which in itself highlights consumers' low awareness of their need for advice. For example, whilst 11% of respondents would expect to need professional advice for life / protection insurance, 70% of Aviva's new policies in these categories are opened on an advised basis. Advice clearly plays a key role in motivating people to understand their needs and take out products to protect themselves, but there is limited demand for advice and low awareness of its benefits.

One of the key challenges for the Review is therefore to increase demand for advice. The call for input recognises that affordability is clearly a key factor in take up – its research found respondents would be more likely to seek advice for investments over £50,000. Behavioural research also suggests that people may set themselves such thresholds but even if they get to it, they will still be led by habit and may not change behaviour and demand or pay for advice. Getting people into the advice market earlier in life is crucial, and third party / public advice and guidance services such as the Money Advice Service have an important role in increasing awareness of the need to plan ahead.

UK consumers face a huge opportunity cost from a lack of financial advice. As an example, we estimate automatically enrolled employees could retire with £100,000 more in their pension in a higher growth fund compared to a default[1]. Helping customers to access and more actively manage their investments should be a target outcome of the Review – whether that is through regulated advice with a personal recommendations or better guidance.

The pension freedom research in our response to Q2 suggested that consumers do not perceive the advice process to be particularly onerous or complex for IFAs. Whilst respondents talked through the financial choices they faced and the trade offs they would need to make, they did not relate this to what an adviser would have to do to make a recommendation. They typically held the misapprehension that the advice process is fairly turnkey, with advisers stamping out the same solutions to their clients.

<u>Existing customers</u>

In considering our response to the Review, Aviva held a series of workshops with our customer facing staff to explore their experiences in helping existing customers. Some participants brought with them expertise in specific product areas such as bonds, investments and pensions; whilst others had a broad knowledge from working in contact centres helping customers with more general initial queries.

A dominant theme from all our workshops was that many customers contacting us do not recognise they have a need for advice so are not even at the stage of researching online, talking to friends and family, let alone taking professional advice whether from an independent / specialist adviser or through third parties such as banks and building societies.

Many customers coming to us do need more 'advice' in its broadest sense and are often not aware advice could benefit them. Sometimes customers do not realise the 'simple' questions they are asking are actually complex, and require a greater understanding of their circumstances and future plans. Calls that start with a simple transactional request can be motivated by complex needs, so we always try to understand more about the customer's needs and circumstances. About 80% of the customers we refer to internal specialists from our initial contact centre need information and education rather than advice.

For example, someone calling asking for a simple valuation on a bond may be looking to access some cash to meet short term needs and turn to cashing in a bond; whereas they may be better off taking a small withdrawal or looking at other savings and investments they may have. Whilst we cannot make personal recommendations or give advice we do try to ensure customers have all the information they may need.

4. Do you have any comments or evidence on the demand for advice from sources other than professional financial advisers?

The call for input covers a range of sources customers may use; this reflects our own experiences. As outlined above, many of the calls we take from customers include some kind of help, information or guidance. In many cases the product provider will be the first point of call for someone looking for

[1] Based on an average salary of £26,000 and assuming 8% contribution over 30 years; with growth rates of 4% (default fund assumption) and 7% (higher growth assumption)

support in managing existing products or transitioning into retirement. Customers express a need for us to tell them what to do, they want us to advise them even though they say they know we cannot provide advice, but they expect providers to be paternal and helpful.

Our own mass market customer heartland of retirees with moderate pots, say £30,000 to £50,000 in savings, and complex interactions with state benefits and the tax system, need more than services such as Pension Wise or the Money Advice Service can offer them, but are unlikely to seek and pay for regulated advice. There is a clear consumer need for more than 'information only' services can give them, but this creates a challenge and we are cautious to avoid crossing the line into advice.

Whilst we do not have consistent measurement of all the sources of advice and support our customers take across all our products, we do have some evidence in specific areas. Of our customers at retirement accessing their pension funds, we find about 20% have already taken advice and we refer a further 25% to advice providers. Alongside this, 35% use Pension Wise and about 10% are not aware of it. Our current 'wake up' pack highlights the availability of Pension Wise and we also signpost the service from our own websites on the retirement pages and in our calls with customers.

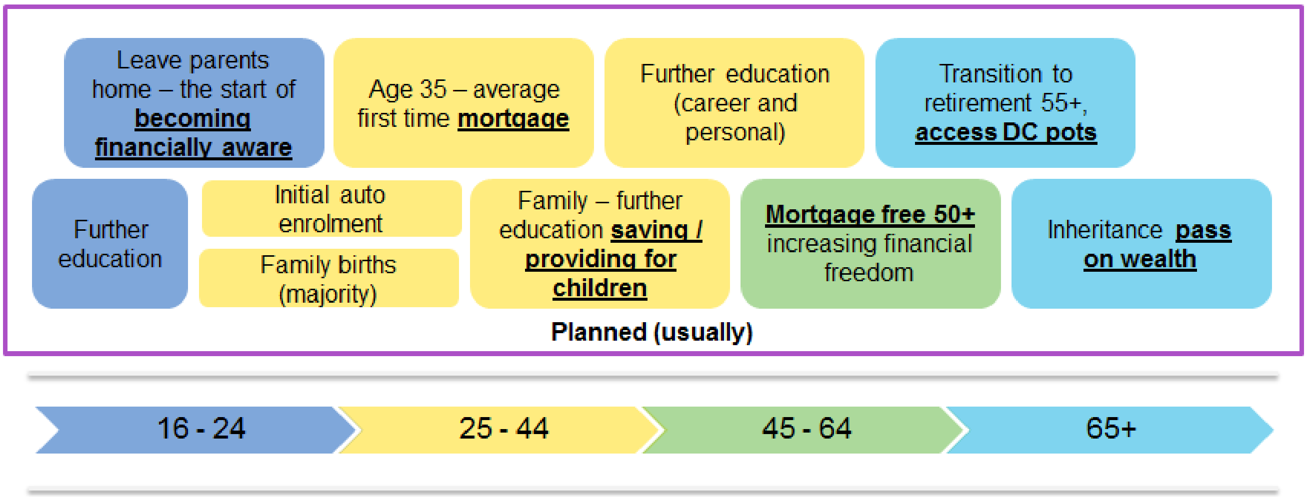
We have worked in collaboration with the FCA to trial potential improvements to take up rates and give even greater prominence to Pension Wise. Since launch of the pension freedoms, we have been continually reviewing our customer interactions, and as a result we have made several changes to our processes and dialogue with customers, as we build our experience in this area. Our current customer feedback does however indicate that customers are looking for more specific guidance or advice than they receive from their interactions with the Pension Wise service. They want a clearer recommendation based on what the information means for them and what actions could help them.

5. **Do you have any comments or evidence on the financial needs for which consumers may seek advice?**
6. **Is the FCA Consumer Spotlight segmentation model useful for exploring consumers' advice needs?**
7. **Do you have any observations on the segments and whether any should be the subject of particular focus in the Review?**

We broadly support the differentiation of financial needs within the call for input, but would question the basis on which some activities are defined as less or more complex. The hierarchy in the review suggests "protecting against misfortune, such as death, disability or sickness" is one of the less complex needs. However, given this could include taking out income protection insurance which requires an understanding of the customer's entitlement to workplace or state sickness benefits and their personal financial commitments - this could be a complex decision.

In contrast, saving for a pension, retirement or investing to meet other needs do not have to be too complex a decision if consumers can be helped to understand their attitude to risk, and are given a shortlist of suitable investment options to choose from. To support this, policy interventions should be based on the view that starting to save and invest is a more desirable outcome than not saving at all. Consumers are increasingly familiar with a range of simple, low cost savings products including workplace pensions and ISAs and the fundamental challenge is to choose a suitable underlying investment fund.

The review needs to consider how to change behaviour and help people get into positive financial habits early in life. Aviva's experience is to stimulate demand by targeting customers at key life stages and we would highlight the following lifestage triggers loosely aligned to age – along with 'anytime' events such as divorce, redundancy, bereavement, or ill health.



Introducing 'Sue'

Aviva has developed its own customer segmentation based on the Experian Financial Services Segmentation modelling. We would be happy to privately brief the Secretariat on the analysis of our priority customer segments, their needs, financial circumstances, and attitudes to advice. Given the recent retirement changes, during 2015 we have prioritised understanding our customers approaching retirement.   Our research, based on Experian analysis, has introduced us to Sue – a fictional customer case study, which highlights the financial concerns of so many people in this age group:

- Sue has a company pension of £55,000, which she thinks is a large pot of money to support her in her retirement - the typical total retirement fund among over-45s yet to retire is £53,793.
- Sue is aware that the state pension has changed, but doesn't know what this means for her; she doesn't know what other savings she can use to help her retire.
- Sue hasn't taken financial advice since she took out her mortgage 30 years ago; she likes dealing with high street banks, and trusts her local branch. With banks and building societies pulling back from providing advice, there is a growing gap in service for people like Sue who relied on their local branch for advice on mortgages, savings, investment and insurance.
- Only 12% of UK adults have taken financial advice relating to their retirement plans. Women like Sue are less likely than men to seek financial advice and are less likely to be confident about their retirement plans.
- She plans to call her pension provider when the time is right, and expects to get all of her information from them.

While Sue is a fictional case study, her financial circumstances represent millions of men and women across the UK who are struggling to understand what the best option is for them. It's important to keep Sue in centre of mind where making policy – and given the Review's focus on mass market consumers saving for and approaching retirement it is crucial the recommendations support people like Sue.

8. **Do you have any comments or evidence on the impact that consumer wealth and income has on demand for advice?**

The analysis in the call for input taken from the Bank of England reflects Aviva's segmentation and we would agree an individual's wealth and income will have a significant impact on their demand for advice – although not necessarily on their need for advice.

For example our 'balancing budgets' family segment with typical household income of £32,000 have much lower levels of intermediation in purchasing financial products than our 'secure' older family segment with £51,000 household income and higher savings. Affluent segments with household wealth of £100,000 and higher value properties are more likely still to be intermediated.

9. **Do you have any comments or evidence on why consumers do not seek advice?**

The summary of consumers' demand side barriers in the call for input seems fairly comprehensive, and since this consultation was published Citizens Advice has released its paper "The Four Advice Gaps" which provides extremely useful evidence on advice gaps, and suggests lack of awareness and cost are key factors in preventing people seeking advice. Their research suggests that up to 5.4 million extra people would consider paying for advice if it cost less, and as many as 10 million people who think they would benefit from free advice but are not aware what advice there is or where to get it.

For many consumers not seeking advice is not a conscious decision not to take advice, but rather due to a lack of awareness of how they could benefit from taking advice. We would again highlight the importance of starting the habit of planning ahead and taking advice from an early age. The withdrawal of advice services from banks and building societies makes it more challenge to encourage people to talk to someone about their financial options. Advice is generally only available when people go looking for it, and to stimulate demand it needs to be integrated into more everyday activities and locations.

We also observe that many customers starting to talk to Aviva have already made up their mind about the action they wish to take before engaging any organisation or provider and so are not interested in taking advice or guidance from other organisations. This is particularly true for customers accessing pension funds in the freedom regime who wish only to take some or all their fund as cash.

Our adviser platform supports customers who hold Aviva investments opened and managed by an adviser. Despite the initial transaction being advised, we are now seeing requests from some customers who want to proceed with a withdrawal from their pension without financial advice. We are currently supporting almost 400 of these customer requests.

Of these, 100 didn't want to use an adviser due to fees, and about 200 stated more generally they didn't want to take advice. Other customers come to us directly as they had previously unsuccessfully contacted an adviser – in about 75 cases, the adviser wouldn't transact the business as they had advised against it; and about 90 customers had been told by the adviser that transacting the request wasn't worth their time.

10. Do you have any information about the supply of financial advice that we should take into account in our review?

11. Do you have any comments or evidence about the recent shift away from sales based on professional advice, and the reasons for this shift?

We note recent FCA figures which found the number of financial advisers has increased by 5% over the past year to 22,557 (vs. 21,496 in October 2014). The number of advisers at banks and building societies has also increased over the past year, reversing a steep decline since the RDR. There are currently 3,672 advisers at banks and building societies, up by 15% from 3,182 in October 2014. However this small increase in adviser numbers still leaves UK customers well short of sufficient numbers of advisers, considering the vast extent of transformation in financial services over the last three years.

The Retail Distribution Review has been the key driver in changing supply of financial advice. Whilst it has achieved some of its initial objectives in increasing the level of professional qualifications amongst advisers, addressing perceptions of commission bias and increasing consumer protection, the cumulative impact of these changes has been to increase the costs of advice and limit supply. The initial objective of increasing consumer access to advice was never met and the Financial Advice Market Review is the ideal opportunity to redress this balance.

12. Do you have any comments or evidence about the role of new and emerging technology in delivering advice?

We cover this issue in more detail in response to questions 36-38 considering automated advice. More generally, the huge growth in use of internet services goes some way to explain why consumers are more confident transacting directly. The growth of websites proving trusted information, guidance and comparison services help customers feel more confident in understanding their needs and knowing where to go to buy. However, in line with the market, Aviva's GI business remains heavily intermediated.

This online engagement for research and generic information presents an opportunity to further develop consumer engagement and help people progress further towards action. Regulation which supports and enables (rather than inhibits as at present) guidance services could help – for example, in agreeing 'rules of thumb' or 'universal truths' which can be presented to consumers in any channel.

We would suggest a working group of government, regulator, guidance providers, media, product providers and advisers agree a common set of recommendations that would be true for the vast majority of people. Simple phrases such as 'as you are married you should consider a joint life annuity'. More complex suggestions such as a suggested annual withdrawal rate of 4% from pensions investments should also be considered. This would empower customers to more confidently take actions that, whilst perhaps not the optimal approach they might take following full regulated advice with a personal recommendation, would still be a positive outcome for them and certainly more beneficial than making a poor decision with no input or guidance from other sources.

13. **Do you have any comments on how we look at the economics of supplying advice?**
14. **Do you have any comments on the different ways that firms do or could cover the cost of giving advice (through revenue generation or other means)? Do you have any evidence on the nature and levels of costs and revenues associated with different advice models?**
15. **Which consumer segments are economic to serve given the cost of supplying advice?**
16. **Do you have any comments on the barriers faced by firms providing advice?**

The economics of supplying advice, and the barriers to firms providing advice, in general and to specific segments, are closely linked so we have responded to these questions together. Aviva does not currently offer regulated advice with a personal recommendation[2], but does offer regulated advice – both over the phone in our retirement contact centres, and in the form of regulated online journeys and tools. The key barriers to supplying advice could be grouped as follows:

<u>Regulatory barriers</u>

The impact of FCA guidance paper FG15/01 means customers who do not wish to pay for a personal recommendation are only offered information only services by providers. Firms are therefore severely restricted in the conversations they can have with their customers and how far they can personalise information. Frequent changes to regulations in this area have driven uncertainty and can make it harder for organisations to commit to and invest in appropriate services.

At present, we cannot provide tools and calculators for consumers to assess their position if they take different withdrawals from different products, for example to compare their individual tax liabilities or likely income under drawdown, annuity or flexible withdrawals. The Review should amend this guidance and allow interactive online services such as fund selection tools and online calculators to be provided without being classed as regulated advice with a personal recommendation.

<u>Qualification requirements</u>

The removal of guidance means employees having conservations with customers that would previously have been guidance now need to be qualified to QCF level 4. This has limited supply and increased staff costs. Further, RDR requirements mean QCF level 4 advice conversations would incur a specific customer agreed charge, which may deter customers from taking up this softer support.

The focused advice and generic advice regimes should be reviewed to see how they can be adapted to support retirees and how QCF level 3 employees may be able to deliver these services; for example with help on selecting investment funds in drawdown, or on understanding tax impacts. Availability of these services will increase if costs can be reduced.

<u>Retrospection</u>

Fear of retrospective action by FCA and FOS in particular leads firms to adopt a risk averse approach which can limit the support they offer to customers. In reviewing the boundaries between advice and guidance, FCA, FOS and HMT should work together and jointly endorse the outcome. This Review is a good first opportunity to test this approach.

[2] Except in Sesame Bankhall Group, which is owned by Aviva but operated independently outside of the Aviva brand.

Costs of advice

Regarding particular segments of consumers, we believe that mass market consumers – Aviva's core customer base - with moderate pots, say £30,000 to £50,000 in savings and complex interactions with state benefits and the tax system, need more help and personal information that they may get directly from firms or from services like Pension Wise, but are unlikely to seek and pay for regulated advice.

Adviser charging rules under the RDR limit the time firms have to recoup the costs of advice services through adviser charging. This has discouraged investment in new advice services particularly for consumers with lower levels of assets. Concentrating the adviser charge in the first few years is relatively expensive for less affluent customers and makes new services more uneconomic for providers as it is likely to severely constrain demand if viability is dependent on an upfront fee.

To encourage greater competition and innovation, the Review should extend the time allowed for new providers of advice services (including 'vertically integrated firms' i.e. including product providers that may wish to offer a regulated advice service) to meet their upfront costs from five to ten years, so firms can avoid having to charge a high advice fee per client. This will potentially allow more financial services providers to offer advice to more customers at a relatively lower price, to help to fill the advice gap for people with smaller funds.

17. What do you understand to be an advice gap?
18. To what extent does a lack of demand for advice reflect an advice gap?

The call for input rightly recognises the different drivers causing different types of 'advice gap' – including people who don't know they need advice so don't take it; people who need advice and know they do but don't access it; and people who have tried to access specific advice services but have been declined. As stated above the Citizens Advice paper The Four Advice Gaps is a valuable review of this issue.

We would also draw a distinction between advice at 'crunch' points, such as managing high levels of debt or entering retirement, and 'preventative' advice, such as starting an investment or taking out protection which may avoid debt in the future. Both can help people achieve better outcomes in the long term, but 'advice' in its most general sense and particularly public advice sources, are most targeted at and most in demand from people at crisis points. Advice is about much more than just sharing information and identifying a suitable outcome – it is a behavioural nudge to take action.

A long term ambition for the Review should be to drive up the numbers of people who aware of the benefits of long term financial planning and therefore increase demand for 'preventative' advice in all its forms, increasing the UK's financial resilience as a whole.

19. **Where do you consider there to be advice gaps?**
20. **Do you have any evidence to support the existence of these gaps?**
21. **Which advice gaps are most important for the Review to address?**
22. **Do you agree we should focus our initial work on advice in relation to investing, saving into a pension and taking an income in retirement?**
23. **Do you agree we should focus our initial work on consumers with some money but without significant wealth (those with less than £100,000 investible assets or incomes under £50,000)?**

Aviva's segmentation analysis outlined above reflects the analysis in the call for evidence that broadly, more wealthy consumers tend to have more access to financial advice. Our focus on Sue supports the Review's prioritisation of investing, pensions and retirement. We see the mass market as being individuals with investible assets of less than £75,000, and agree with the Review's focus on consumers in this bracket – with enough money to have a range of options, but not significant wealth. The Citizens Advice report suggests clients with assets of £61,000 are more attractive to financial advisers so the crucial gaps are likely to be for consumers with less than this amount.

Whilst estimates on the actual size of the 'advice gap' vary widely, we estimate there are 2m people who are either unwilling to pay for full advice, or where it's not economical for advisers to serve them. Additionally the complexity of the investments market leads to low engagement amongst a large number of consumers who do not want to 'self select' investments.

We would suggest of the needs identified within the call for input's 'heatmap', consumers tend to be more confident transacting directly (or accessing advice) in more transactional purchases such as mortgages, short term saving, taking out credit, and getting retail general insurance cover.

24. **Are there aspects of the current regulatory framework that could be simplified so that it is better understood and achieves its objectives in a more proportionate manner?**

Advice gaps will drive non-advised purchases and hence the risk that some people make wrong choices. Whilst in an ideal world everyone would have access to personal advice, the Review should prioritise increasing access to solutions which help consumers make better choices outside of the regulated advice with personal recommendation framework. This will help ensure the advice market as a whole helps drive good outcomes for a large amount of consumers, rather than be focused on delivering optimal outcomes for the few who will access full advice.

For example, services such as fund selectors or risk profilers could help people get better outcomes from their pensions and investments. In the form of online tools, these are already being delivered in the regulated space and authorised by QCF level 4 staff. These could be better supported by allowing firms more freedom (at a lower level of qualification) to answer customers' factual questions more directly without it being seen as advice.

In addition, one of the major issues for firms is the potential for retrospective interpretation of the rules by FOS and/or the FCA. An example is the current annuity thematic review. This is particularly relevant in a stressed scenario such as a prolonged market crash or period of high inflation. Both the regulator and FOS must be clear in their position.

An example is treatment of insistent customers (i.e. customers who do not wish to take advice) who want to access their pension funds post pension freedoms. Neither the FCA nor FOS has been clear how future complaints will be treated or what appropriate practice is. This uncertainty is leading to firms adopting a very risk averse approach leading to long customer journey times as customers are sent round loops, causing frustration for customers. The FCA and FOS should provide clarity on such scenarios (firms would be happy to provide these scenarios) and this should be published.

25. Are there aspects of EU legislation and its implementation in the UK that could potentially be revised to enable the UK advice market to work better?

One of the main pieces of EU legislation affecting the UK advice market is the Markets in Financial Instruments Directive (MiFID) and its successor MiFID II. This covers the standards required of independent advice but does not in itself apply to pensions and insurance based investment products. It would be helpful if the FCA could amend its transposition of this directive into UK regulation, which extended the MiFID II regime to these products.

Aviva believes it makes sense to apply the requirements of the Insurance Distribution Directive (IDD), which will replace the Insurance Mediation Directive, to insurance based investments – this has a longer implementation time and does not include the extensive appropriateness test. Taking this approach would place fewer restrictions on the outcomes the FAMR could recommend.

26. What can be learned from previous initiatives to improve consumer engagement with financial services?

Previous initiatives to improve consumer engagement have taken two approaches – to improve products, and to redesign advice. Product initiatives include the Sandler review which led to the creation of CAT standards and stakeholder pensions, and simple products. Aviva has supported these initiatives, for example, investing significant amounts in developing and advertising stakeholder pensions, and developing simple life protection products which we distribute through a third party.

Whilst products such as these meet the objectives of being simple, and easy to understand and explain, they have not in themselves driven up consumer engagement or closed the savings and protection gaps – designing new or improving existing products is not in itself enough to boost demand. The crucial question is how to get people to want and use these products.

Other initiatives have attempted to boost demand and increase supply by redesigning the route to market – for example, the basic advice regime that went hand in hand with the stakeholder suite. Aviva believes previous interventions in this space have failed because they were too close to full advice and so didn’t succeed in freeing themselves of the costs and risks of that model.

In some cases, they were also tied to very restrictive product or price limits which constrained supply of the model as it would not be economically viable to target or service a broad customer base. Such initiatives were also competing against a commission-driven sales model, which made distribution very difficult to achieve – this would be much less of an issue post RDR, as the commission model for investment products has been abolished.

The challenge for this Review is therefore to ensure any new 'middle way' advice regime is sufficiently distinct from traditional advice, and finds the right balance between driving action, consumer protection and economic viability.

27. Are there any approaches to the regulation of advice in other jurisdictions from which we could learn?

We would sound a note of caution in looking to other regulatory regimes as we cannot assume outcomes would be the same if similar interventions were applied. Some other markets have significant structural drivers for product take up so demand has proved more robust than the more voluntary system in the UK.

For example, in 2013 the Dutch market introduced a package of measures akin to the RDR including a broad commission ban including retail investments, protection and mortgages, increased professionalism requirements and a stronger regulation of the fact-finding and recommendation processes. This led to a significant decrease in the number of advisers but not a corresponding drop in sales.

This consistency of demand in the Dutch market is more likely to be due to the long-standing expectation in the Netherlands that both the employer and the individual have a significant role to play in protecting the employee, and the insistence of most mortgage lenders upon protection policies being in place in advance of a loan, than the success of the regulatory intervention.

Without such structural behavioural triggers in the UK, declining adviser numbers has resulted in declining take up of both financial advice and products. As we have stressed elsewhere, financial advice is not just simply the conveyance of specialist knowledge from an expert to a lay person, it is a behavioural trigger to encourage positive action in managing individual finances which ultimately benefits both the individual and society in general.

28. What steps can be taken to address behavioural biases that limit consumer engagement without face-to-face advice?

Aviva is a leading provider of workplace pensions and we recognise that for many consumers the workplace is the key driver for their financial decision making. Good employer pensions are instrumental in improving people's retirement outcomes - DWP statistics show that two thirds of all workplace pension contributions are made by employers and Towers Watson research shows two thirds of employees contribute at the rate that will result in the highest matched contributions from their employer. Whilst DWP estimates that 11 million people currently working will retire with insufficient savings, the picture would be a lot bleaker without employer support.

Many employers offer education tools such as presentations, internal microsites and seminars - either delivered in house, by their pension provider or their corporate IFA or employee benefit consultant. These services sit outside regulated advice with a personal recommendation but have a positive impact in boosting financial engagement and capability.

For example, we use our financial education team to deliver face to face presentations and also our E-community online system, which allows two way web-based communication between employees and the Aviva Financial Education team to help share information on issues such as what is salary sacrifice, how they can maximise their contributions, and how a pension works. This observes advice and regulation restrictions but helps create dialogue and recognition within employers about the benefits of saving into a pension.

Using trusted sources of information and informal networks such as these can be a crucial first step for people to start considering their finances, when they might be deterred from contacting more formal sources of help and reluctant to seek or pay for advice. However these type of schemes to tend to be more popular and successful in larger employers (perhaps 4,000+employees). Within SMEs there are more time and resource pressures and less likely to have specific pension or HR teams to help co-ordinate this kind of activity.

Recognising the importance of the workplace, automatic enrolment is an excellent example of how positive consumer outcomes can be achieved by working with behavioural biases. As the programme rolls out to SMEs there will be more opportunity to deliver engagement and education tools to people working for these smaller firms.

The Review could consider how to build on the success of auto-enrolment to address consumers' further financial needs. Potential extensions could include referrals to financial advice via unbiased.co.uk or similar; or adding opt-in products such as a savings product (ISA or variation), protection and healthcare products. 'Kite-marked' and simple products in many of these spaces are already defined but their success has been hampered by lack of demand – linking them to auto-enrolment could significantly boost take up.

29. To what extent might the different types of safe harbour described above help address the advice gap through the increased incentive to supply advice?

30. Which areas of the regulatory regime would benefit most from a safe harbour, and what liabilities should a safe harbour address?

31. What steps could be taken to ensure that a safe harbour includes an appropriate level of consumer protection?

We believe developing a safe harbour where customers have no recourse to FSCS or FOS would undermine consumer protection. Ensuring a customer fully understands the restrictions and limitations of the 'advice' they had received would be very challenging and in the long term damage trust in the industry. Instead we would support a modified form of long stop and a "middle way" between information only and advice, which maintains this long term level of protection – we outline our views on this in response to question 39.

32. Do you have evidence that absence of a longstop is leading to an advice gap?

33. Do you have evidence that the absence of a longstop has led to a competition problem in the advice market e.g. is this leading to barriers to entry and exit for advisory firms?

34. Do you have any comments about the benefits to consumers of the availability of redress for long-term advice?

35. Do you have any comments or suggestions for an alternative approach in order to achieve an appropriate level of protection for consumers?

Through various industry groups and discussions we understand organisations are nervous about entering the advice market because of their open ended liability to future financial redress. However, we recognise customers need protection in the long term. Some form of limited financial redress seems an appropriate compromise.

A potential option for a longstop could be a Financial Services Compensation Scheme type approach where, after an agreed period after the advice was given, liability is capped and compensation paid from the pooled fund. Detailed modelling would be needed to consider how financially viable this would be and whether it would improve competition and consumer outcomes. If it could be delivered more cost effectively than increased costs of professional indemnity insurance it should drive down the average cost of advising a customer and hence make it easier for advisers to profitably serve less wealthy customers.

36. Do you have any comments on the extent to which firms are able to provide consistent automated advice at low cost? Are you aware of any examples of this, either in the UK or other jurisdictions?

37. What steps could we take to address any barriers to digital innovation and aid the development of automated advice models?

38. What do you consider to be the main consumer considerations relating to automated advice?

Automated advice is emerging in response to digital capability, customer need and regulatory change and while it is still in its infancy, forecasts suggest it will enter the main stream in the next five years. Automated services present an opportunity to build scale and help customers which may currently be unserved as they may be unprofitable for advisers in a face to face model.

At Aviva we want to help people explore, buy and manage their insurance and savings products online - any time, anywhere, on any device. We welcome the FCA's 'Regulatory Sandbox' which will allow businesses to test innovative solutions without immediately incurring all the normal regulatory consequences of pilot activities, alongside Project Innovate.

Our 2015 Consumer Attitudes to Saving research found in the UK, where internet penetration stands at 92%, half would buy their car insurance online and nearly one in three their life insurance. More people – almost four in ten – prefer to buy and manage their financial products online (for instance by using an app to make an insurance claim or use a website to make changes to their investments) while just 27% do not. Those who would like to buy and manage their investments online are more likely to have investments than average.

Aviva believes that at present, using tooling and a regulated online advice journey, probably works better for consumers (it's 'free') and providers (less risk) than trying to give full automated advice, which would lead to a personal recommendation.

The breadth and potential complexity of getting all relevant information about a customer can add complexity to an online advice service as much as it can to a human one. Automated advice is therefore simpler and more effective when helping customers with simpler savings and investment needs – such as choosing an appropriate ISA and underlying funds – rather than helping customers managing their retirement finances as a whole.

Technology can play a significant role in reducing the costs of advice, for example, by providing background education which will alert people to the need for advice and then help them understand their options.

Technology can also allow access to data in a more efficient manner. A wider adoption of online access to a customer's pension and investment information would reduce the total elapsed time, leading to advisers being able to see more customers per year and hence reduce the unit cost of advice. Work towards pensions dashboards should help take time and complexity out of the advice journey. Regulators and government should work with the industry to help enable such developments, this should include the Pensions Regulator to drive adoption of this approach by trust based schemes.

Customers could provide personal data via completing or partially completing, online fact finds before a face to face advice session. This would again potentially reduce costs, although it may be difficult to get customers/advisers to adopt this approach, as current online fact finds are generally not well received by either party. If the regulators shifted the responsibility for the accuracy of the fact find to the consumer (rather than the adviser), advisers may be more supportive of this approach as they wouldn't have to then re-check all of the entries, as they tend to do now.

This could be further facilitated by developing portable fact finds that the consumer could fill in and which would be compatible with many firms' advice journeys. Completion of a portable fact find could form part of the Pension Wise journey or other public guidance conversations, to help facilitate the link between information, guidance and advice.

Ongoing advice around drawdown options and monitoring could be accomplished via the use of digital and telephony services. This is possible under the current regulatory frame work, but if the FCA and FOS simplified the review process and what is reassessed on a regular basis, the cost of ongoing advice could be reduced.

We do not believe automated advice requires a separate regulatory regime but a helpful step would be to make sure rules are written for a digital age. For instance, there are currently references to wet signatures and paper documentation in many financial services regulations - this will become increasingly irrelevant at a time when firms want to communicate with customers through other channels. Much of this is at EU level (IDD and PRIPS for example) and we would welcome FCA championing future reviews of EU financial services legislation to ensure that rules are digital friendly.

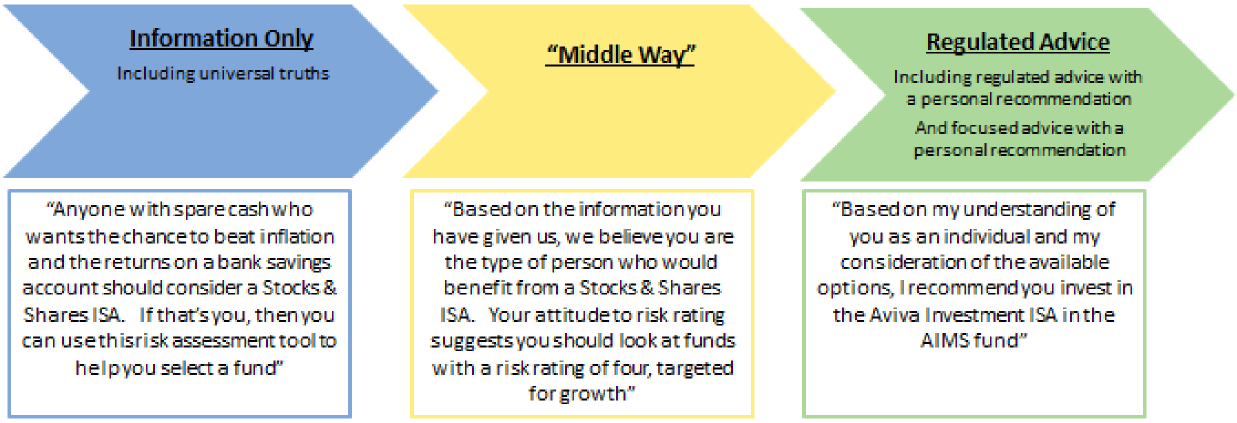
Regulations should allow enough flexibility for consumers to enter an automated advice journey but move between this and human interventions whether on the phone or online. The current regulatory position is relatively clear – such systems must be approved by a level 4 qualified individual but staff assisting customers to use such tools (e.g. over the phone) do not themselves need to be level 4 qualified (as it is the technology itself that is providing the advice, not the individual providing support). This seems pragmatic and is less resource intensive as the upfront approval of one level 4 qualified person can be scaled up through technology to support potentially hundreds or thousands of consumers.

There are also cultural barriers limiting demand and therefore slowing the pace of innovation and time taken to recoup costs – which would include lack of customer trust in automated solutions, a preference for personal interaction with adviser and low customer willingness to pay for automated advice. We would expect these barriers to reduce over time, much as online and mobile banking or utilities are becoming the norm, as customers become increasingly comfortable with financial transactions taking place online and expect 24/7 access to their finances.

39. What are the main options to address the advice gaps you have identified?

We have touched on some of the options throughout our response – the Review should take forward a range of actions to help address the advice gap. In considering the challenges outlined in the Review we conclude there is no one 'silver bullet' solution and it will take a number of co-ordinated and complementary interventions to help close the gap, working from a number of different directions.

The objective of redefining categories of advice should be to align the services available to consumer needs – for clear factual information about their position and their options; for guidance on a specific set of needs and products; and for full holistic advice on all their finances. These should include:



1. Information only

- The regulatory definition of 'information only' should be expanded to give more room for organisations (including employers, charities, product providers and guidance providers) to help customers understand and manage their financial circumstances.
- This should include the provision of 'universal truths' which are generically true for the vast majority of the population. Tips such as "*you should pay down expensive debt before making investments*", "*if you are have a partner think about taking a joint annuity*" or "*everyone should have 'rainy day' cash savings of three months' salary*" could be agreed with regulators and government to create social norms or rules of thumb to help people manage their finances.
- Interactive online services such as fund selection tools and online calculators should be permissible without being classed as regulated advice with a personal recommendation.
- This regulatory definition should also complement the rules on unregulated generic advice, such as general financial planning advice or advice on whether to repay debt or invest.

2. A middle way

Once a consumer has access to all the information available, the likely next question is 'what should I do?' or 'what does it mean for me?' At the moment, this question can only be answered by obtaining (and paying for) a personal recommendation. This is not a satisfactory outcome for the majority of consumers who are unwilling or unable to pay for a personal recommendation. Evidence from our contact with customers is that those with moderate wealth need more support and help than they may get from information only services or third party providers.

To meet this need we recommend introducing a “middle way” option to give consumers a recommendation for action which is more specific than the universal truths they would get in an information only service but less tailored than a personal recommendation from regulated advice. To achieve this, consumers would be assigned to segments based on their personal circumstances and provided with appropriate recommendations – allowing firms to tell consumers ‘people like you should consider….’. This approach could be regulated as follows:

- The process should be designed by QCF level 4 staff, but operated by QCF level 3 staff or by an automated process.
- Products eligible for sale through this middle way could be limited to those that are appropriate to the target market (i.e. not highly complex) but these limits should not be too rigidly fixed in legislation, to allow room for the industry to innovate and bring relevant new products into the process. A ‘value for money’ framework may also be needed to give confidence that the products being sold via this “middle way” are not intended to generate excessive margins for providers.
- Public guidance services should be allowed to refer customers on to these services and could share portable fact finds with “middle way” providers to reduce the information gathering part of the process.
- Charging could be explicit (charge for the process) or integrated into product pricing. For investment products, there may be a case for limiting integrated pricing to fund sizes below a certain level (e.g. £75,000) to avoid competitive disruption to the market for full advice. This should be a clear charge set out in pounds and pence rather than as percentage of funds.
- Liability for errors should be limited to where the provider of the recommendation has been significantly negligent in either the design or the implementation of the process, and as a result, the customer has received an outcome significantly worse than if they hadn’t taken action. (Note that this test would be against inaction rather than the optimal outcome that could have been achieved via regulated advice with a personal recommendation). In this way, we avoid the perfect being the enemy of the good, and significantly reduce the costs of delivering help for lower- and middle-income consumers – as well as making the model much more amenable to automation.
- There may also be a case for a cap on liability either in timing or amount, and this should be considered in the detailed design. However, we recognise the need for consumer protection to give confidence in the process and we believe the more significant issue for providers of advice is the test for liability, as described above, not the existence or otherwise of a liability cap.

Clearly further work will be required to design the details of how such a “middle way” option could work in practice, including finding a suitable name - which we would suggest should not include the word ‘advice’. We would be keen to work with HMT and FCA in future to explore how a “middle way” could work in practice and provide further thinking.

3. Drive down costs of regulated advice and personal recommendations

- Adviser charging rules under the RDR limit the time vertically integrated firms have to recoup the costs of advice services through adviser charging. This has discouraged investment in new advice services by major banks and insurers, particularly for consumers with lower levels of assets – as concentrating the adviser charge in the first few years is relatively expensive for less affluent customers and makes new services uneconomic for providers.
- The costs to firms incurred through the requirement for level 4 staff to provide regulated advice or a personal recommendation, could be overcome by allowing regulated advice without a personal recommendation to be provided by QCF level 3 level staff (note personal recommendations would still be provided by QCF 4 staff).
- Open ended liability to future financial redress can increase the costs and limit availability of financial advice. However, we recognise customers need protection in the long term. Some form of limited financial redress seems an appropriate compromise could balance affordability with consumer protection and we recommend the Review considers a Financial Services Compensation Scheme type approach where, after an agreed period after the advice was given, liability is capped and compensation paid from a pooled fund.

40. What steps should we take to ensure that competition in the advice markets and related financial services markets is not distorted and works to deliver good consumer outcomes as a result of any proposed changes?

It would be helpful to model the likely scenarios that may evolve in response to the Review's ultimate recommendations. For example, we would anticipate that our proposal to relax the RDR limit on the time firms have to recoup the costs of advice services through adviser charging would drive up competition by attracting new entrants. We would also note here, that we would need to ensure any "middle way" option is targeted to the mass market and does not undermine the existing market for advice to higher net worth consumers.

41. What steps should we take to ensure that the quality and standard of advice is appropriate as a result of any proposed changes?

As noted above, the RDR was very successful in driving up qualification and professionalism standards within the financial services industry, but could be argued to have inhibited consumer access to financial services. Likewise, the Review must ensure that any attempt to broaden the range of help and guidance firms can offer customers does not compromise protection.

Agreeing clear boundaries of advice types with firms, regulators and ombudsmen upfront will help clarify what is acceptable and give firms confidence to operate within the rules to their full extent. Consumer protection and confidence will be vital to the long term sustainability of any new system, which is why we have argued above for the retention of consumers' right to redress in all circumstances.