# Policy briefing

PFS | CII

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# HMT/FCA Financial Advice Market Review: Final Report


On 14 March, HM Treasury and the Financial Conduct Authority published their final report on the Financial Advice Market Review (FAMR). Its aim has been to:

- explore ways in which government, industry and regulators can take individual and collective steps to stimulate the development of a market to deliver affordable and accessible financial advice and guidance to everyone;
- the extent and causes of the advice gap for those people who do not have significant wealth or income; and
- the regulatory or other barriers firms may face in giving advice and how to overcome them;

The final report sets out 28 recommendations aimed at addressing these issues, including the following:

- amend the definition of "regulated advice" so that it is based upon a personal recommendation, in line with that set out in the EU Markets in Financial instruments Directive (MiFID);
- produce guidance (including illustrative case studies) to support firms offering services that help consumers making their own investment decisions without a personal recommendation;
- modify the time limits for employees to attain an appropriate qualification, and allow flexibility by allowing employees to work for up to four years under supervision to obtain an appropriate qualification and experience;
- challenge the industry to make a pensions dashboard available to consumers by 2019, bringing together industry and consumer representatives to help them set direction and drive progress; and
- reject the introduction of a long-stop limitation period for referring complaints to the Financial Ombudsman Service. However the FCA and Treasury will consider any ongoing trends and the impact of the Financial Ombudsman Service's complaints data relating to advice on long-term products.

**Stop press: implications of Budget 2016:** the Government has agreed to take forward the recommendations around altering the definition of advice, implementing pension dashboards, the tax incentives to employers facilitating financial advice, and consulting on the Pensions Advice Allowance. However, its other announcement on Lifetime ISAs appears to be a precursor to a Tax-Exempt-Exempt pensions taxation system, which could undermine the latter policy.

**Next steps:** the report sets out an indicative timetable over about 3 years to deliver the recommendations.


## Overview

On 14 March, HM Treasury and the Financial Conduct Authority published their final report on the Financial Advice Market Review (FAMR): www.the-fca.org.uk/financial-advice-market-review-famr

The review was co-chaired by Charles Roxburgh, Director General, Financial Services at HM Treasury and Tracey McDermott, acting CEO at the FCA, and comprised joint secretariat including FCA and HMT staff.

Its aim has been to explore ways in which government, industry and regulators can take individual and collective steps to stimulate the development of a market to deliver affordable and accessible financial advice and guidance to everyone.

- the extent and causes of the advice gap for those people who do not have significant wealth or income;
- the regulatory or other barriers firms may face in giving advice and how to overcome them;
- how to give firms the regulatory clarity and create the right environment for them to innovate and grow;
- the opportunities and challenges presented by new and emerging technologies to provide cost-effective, efficient and user-friendly advice services; and
- how to encourage a healthy demand side for financial advice, including addressing barriers which put consumers off seeking advice.

## Background

The Financial Advice Market Review (FAMR) was established in August 2015 with the aim of identifying ways to make the UK's financial advice market work better for consumers. The Review initially had a wide scope across the entire financial services market in order to assess the availability of advice and guidance to help people with their financial decision-making, particularly those who do not have significant wealth or income.

A Call for Input published in October 2015 set out the following areas for discussion:

- increasing complexity in financial services products and how they are described;
- increasing choice of products, product features and distribution methods;
- increasing levels of debt in some consumer segments;
- the impact of technology on how people engage with financial services products and services;
- increased flexibility in how people are able to draw money from pension schemes at retirement; and
- changes to demographics, an ageing population and the need to consider issues such as long-term care.

### CII response

The CII submitted a detailed response to the FAMR in December 2015. Its key messages were:

- welcoming the Government's efforts to make financial advice, in its broadest definition, accessible to all. While the introduction of the Retail Distribution Review (RDR) made 'regulated' financial advice more robust, it is arguably beyond the needs of consumers with less complex requirements.
- calling for minimum standards for any new advice propositions to engender public trust and confidence. This should be built around Standards, Training, Accreditation and Revalidation (STAR) that could form a confidence-building foundation from which the market could develop any existing and new 'advice' propositions:
    - **Standards:** setting out what's expected of those firms giving advice or guidance, and what those individuals delivering it would be reasonably expected to know and perform;
    - **Training:** to impart and verify the required individual knowledge and competence aspects of the standards;
    - **Accreditation:** to confirm that the standards have been attained by organisations in their internal processes, and continue to be maintained; and
    - **Revalidation:** to ensure that those individuals delivering these services are up to date with the latest developments, such as changes to investment and pensions policy, taxation and the benefits system.
- regardless of which service the adviser is giving, or the channel and label being used; if the advice is perceived as professional by the public, then it must be clear, transparent and, above all, robust with STAR is its foundation.

# FAMR scope

The final report details a series of measures aimed at stimulating the development of a market that provides ***affordable and accessible financial advice and guidance for everyone, at all stages of their lives***. It also contains proposals designed to increase consumer engagement with financial advice.

### Use of term "advice"

The report uses 'advice' as a shorthand for regulated financial advice. Other forms of help provided to consumers, which do not meet this definition, are referred to in this report as 'guidance'.

# General views

### Financial advice in the UK

Following the Retail Distribution Review (RDR), the FAMR final report stated that "the UK has a high-quality financial advice market. Standards and professionalism across the industry have increased. That drive to higher standards, along with other factors discussed in this report, has, however, contributed to a reduction in adviser numbers." The review found that:

- while transparency has been improved and conflicts of interest reduced, advice is expensive and not always cost-effective for consumers, particularly those seeking help in relation to smaller amounts of money or with simpler needs.
- factors including the significant costs of providing face-to-face advice, mean that it may not be economical for firms to serve consumers with lower amounts to invest or with simple needs, e.g. someone wanting an appropriate product for 'rainy day' savings."

### Affordability

The report importantly takes the view that while high-quality advice is important, it is not always the only solution. It states that:

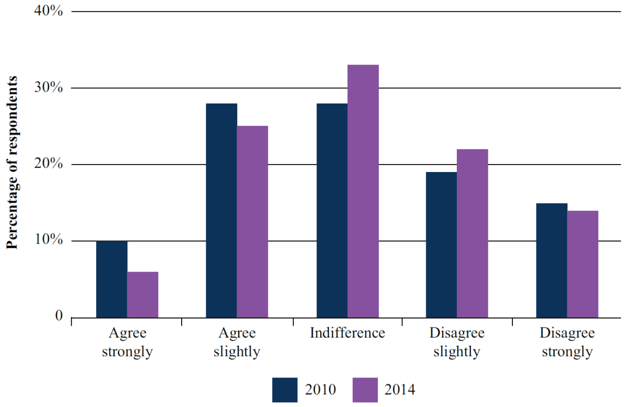
- not everyone wants or needs a personal recommendation in respect of every decision, nor do they always need a comprehensive assessment of all of their financial circumstances and requirements; however
- people would often like more support in understanding the options that are available to them. More can be done to create an environment in which firms can deliver tailored services which give consumers advice on a more limited basis or the guidance to instill consumers with the confidence to make their own decisions.

### Accessibility

The FAMR takes the view that a lack of consumer engagement and demand were important factors holding back the development and growth of the advice market.

- it points out that Call for Input responses noted a number of issues contributing to this lack of engagement and demand, and identified situations in which people were not able to receive the level of support or guidance that they would have liked.
- the paper quotes several research reports including our own *RDR and Consumers* research in 2014[1], citing "evidence of relatively low consumer awareness of the

**FCA research with Europe Economics: Perceptions of whether financial advisers make recommendations in the client's best interests, 2010 and 2014 (from report p.24, Chart 3)**




[1] Financial Advice Market Review – Final Report, 2016, p.23, note 32, citing The Personal Finance Society, *The RDR and Consumers: The Public's Views Towards the Retail Investment Advice Market*, February 2014, www.cii.co.uk/28904

changes introduced by the RDR. This lack of awareness of new requirements and higher standards may help to explain the continuing lack of trust in advisers."

- it also cites research into perceptions about adviser recommendations being in the client's best interests, which is an important "value of advice" indicator (see chart).

Cost was one factor identified as holding back demand.

- Several respondents stated that many consumers with lower incomes or investible amounts are unable to pay for advice. Part of this is down to the fact that those with less wealth find advice less cost-effective than those with greater wealth, as the cost of advice proportionate to the investible amount is more significant.
- FAMR has found evidence that consumers with less wealth would be willing to pay some amount for advice, but are put off by its current price.
- Several responses also suggested there is a segment of the population that is unwilling to pay for advice.

### Liabilities and consumer access to redress

FAMR believes that the existence of appropriate protection for consumers is necessary if they are to have confidence in financial advice. However, it is also clear that the risk of paying redress in the future on advice given previously is a concern for many firms.

- One specific issue that firms have identified is that the unpredictable nature of the Financial Services Compensation Scheme (FSCS) levy makes it hard to plan effectively, and that the cost of funding the levy is not necessarily being borne by those that create costs for the scheme.
- FAMR recommends that the FCA's review of how the FSCS is funded should explore risk-based levies, reforming the FSCS funding classes and whether contributions from firms could be smoothed by making more extensive use of the credit facility available to the FSCS.

## Recommendations

The final report sets out 28 recommendations aimed at addressing these issues. FAMR has recommended a package of measures that has potential to promote a real improvement in affordability and accessibility of advice and guidance to people.

**Next steps:** for the vision to be realised, there needs to be continued commitment/co-operation not only from regulators and Government but also employers, consumer groups and the financial services industry. The paper sets out a grid of indicative timings and owners for each of the recommendations, and these have been reproduced here.

### Definition of 'advice'

The most important recommendation in the final report is that the Government will consult on amending the definition of regulated advice so that it only involves that resulting in a personal recommendation.

| **Recommendation 2:** | **Owner:** HMT | **Indicative timing:** implement early 2017 |
|---|---|---|
| Consult on amending the definition of regulated advice in the existing Regulated Activities Order (RAO) so that regulated advice is based upon a personal recommendation, in line with the EU definition set out in the Markets in Financial instruments Directive (MiFID). | | |

Currently, the regulated activity of 'advising on investments' under Article 53 of the Regulated Activities Order (RAO) is wider in scope than 'investment advice' under the EU Markets in Financial Instruments Directive (MiFID). Whereas MiFID requires advice to be of a personal nature, RAO does not. MiFID investment advice involves the provision of personal recommendations to a customer, either upon the customer's request or on the firm's initiative. It comprises three main elements:

- there must be a recommendation that is made to a person in their capacity as an investor or potential investor (or in their capacity as an agent for an investor or personal investor);

- the recommendation must be presented as suitable for the person to whom it is made or based on the investor's circumstances; and
- the recommendation must relate to taking certain steps in respect of a particular investment which is a MiFID financial instrument, namely to buy, sell, subscribe for, exchange, redeem, hold or underwrite a particular financial instrument (or exercise a right to buy, sell, subscribe for, exchange, or redeem a financial instrument).

FAMR believes "that firms should be able to deliver guidance services that can help to support consumers in making their own decisions about the right products for their needs and circumstances, and wants to ensure that the regulatory framework does not inhibit this."

Firms have suggested that this proposal will allow them to provide more useful information to support customer decision-making, such as the merits of, and the risks associated in general with, buying and selling particular investments. It would also provide greater certainty by:

- creating a single definition for regulated advice based upon the MiFID definition of a personal recommendation;
- removing some of the regulatory barriers constraining the content of current guidance services; and
- bringing the UK's definition of advice into line with that of other countries covered by MiFID.

### Existing definitions of 'advice'

***MiFID 'Investment advice':***

MiFID Level 1 Directive 2004/39/EC, Art.4.1(4) is built around the giving of a *personal recommendation*: "the provision of personal recommendations to a client, either upon its request or at the initiative of the investment firm, in respect of one or more transactions relating to financial instruments"

***RAO 'Advising on investments':***

The UK Regulated Activities Order 2001, Art.53 is much more complicated and wide ranging: "advising a person is a specified kind of activity if the advice is:

(a) given to the person in his capacity as an investor or potential investor, or in his capacity as agent for an investor or a potential investor; and

(b) advice on the merits of his doing any of the following (whether as principal or agent) is:

(i) buying, selling, subscribing for or underwriting a particular investment which is a security or a contractually based investment, or

(ii) exercising any right conferred by such an investment to buy, sell, subscribe for or underwrite such an investment."

#### *Implications*

This is very consistent with the CII's view on STAR. Research we recently published on consumer actions and attitudes towards the pension freedoms that clearly indicated that staff working in the sector could be trained to serve customers in a more targeted and specific way.[2] This could include offering specific services to customers that are better tailored for guidance rather than advice. The CII intends to respond to this finding.

**Recommendation 3:** | **Owner:** FCA | **Indicative timing:** consult early 2017

Consult on new guidance to support firms offering services that help consumers making their own investment decisions without a personal recommendation. This should include a series of illustrative case studies highlighting the main considerations firms need to take into account when developing such services and dealing with specific areas of uncertainty identified during the Review.

Stakeholders, particularly following the implementation of the pension freedoms, have identified a number of specific areas where they feel a lack of regulatory clarity is inhibiting the development and delivery of aspects of guidance services likely to benefit new and existing customers. For example, a number of firms would like greater certainty on their ability to write to existing customers with tailored information on their investment, including the use of prompts based on 'rules of thumb'.

**Examples of areas where firms desire greater clarity (Box 4, p.32)**

- Contacting customers who have not used their ISA allowance in a given tax year with information about how much of their allowance is still available.
- Contacting existing customers invested in a single asset class or sector to highlight the potential benefits of diversification and prompting them to consider whether their investment strategy is appropriate.
- Contacting existing customers to highlight that a particular investment has consistently underperformed its benchmark and prompting them

[2] The Chartered Insurance Institute, *What consumers want: pension freedoms and a 'new normal' in retirement*, Feb 2016, www.cii.co.uk/39711

to consider whether their investment strategy is appropriate.

- Providing new and existing customers with personalised tools and calculators to help inform their decision-making. For example, a 'financial health-check' to determine whether a customer was in a position to make an investment, a tool modelling the potential returns from different products, or a tax calculator showing customers their potential tax liabilities under different retirement income options.
- Contacting customers who have never increased their pension contributions to prompt them to consider whether their existing pension is likely to meet their needs and highlighting the impact of increasing contributions on their income in retirement.

The FCA and HMT agree that it is important for firms to have further clarity on the regulatory responsibilities underpinning the development and delivery of guidance services. This is further justified given the implications of the proposal to amend the RAO definition of regulated advice in line with that of MiFID. This guidance will provide firms with greater clarity on ensuring they meet the necessary regulatory requirements when designing, implementing and monitoring these services.

### *Implications*

Again this could be consistent with our research findings, provided that it is implemented properly and in such a way as to encourage industry initiatives such as the CII's work to raise professional standards in the life, pensions and long-term savings sector, and the ABI's work to encourage clearer information and consistent terminology.

| **Recommendation 4:** | **Owner:** FCA | **Indicative timing:** consult in 2017 |
|---|---|---|

Developing a clear framework that gives firms the confidence to provide streamlined advice on simple consumer needs in a proportionate way. As part of this, the FCA should produce new guidance to support firms offering 'streamlined advice' on a limited range of consumer needs. This should include a series of illustrative case studies highlighting the main considerations when developing such models.

This would:

- create an environment that supports firms in delivering 'streamlined advice' within the MiFID regime;
- would have a positive effect on the market, particularly for online automated advice models that have the ability to deliver advice in a more cost-efficient way;
- a well-functioning market will see firms innovating to offer streamlined advisory services that are commercially viable and provide appropriate consumer protection.

Provided this is delivered in accordance with the STAR principles outlined in our response, this could actually work effectively, and the CII would welcome feeding into the development of this guidance.

## Professional standards

| **Recommendation 5:** | **Owner:** FCA | **Indicative timing:** consult in 2017 |
|---|---|---|

Modifying the time limits for employees to attain an appropriate qualification in the FCA's existing Training and Competence sourcebook (TC). This will give firms more flexibility to train a new generation of advisers by allowing employees to work for up to four years under supervision to obtain an appropriate qualification and experience.

Some industry stakeholders (representing both small and large firms) have argued that the current retail investment qualification requirements can be a burden when trying to design and deliver models that offer affordable advice on more straightforward needs.

Firms also said they want greater clarity on how employees studying towards an appropriate qualification are able to work under the supervision of an individual who has attained the appropriate qualification. Collectively, stakeholders suggest issues with the existing regime are restricting firms' ability to train a 'pipeline' of future advisers, as there is insufficient flexibility for individuals to develop and become qualified while working within a business.

### *Implications*

When combined with the previous recommendations around guidance and advice, this could have potential in helping the sector raise its professional standards. The CII has been working on initiatives in this area since before the pension freedoms:

- in May 2015, we rolled out our *Pensions Update Programme* qualification,[3] the first and to date the only training unit specifically designed to help financial planners, paraplanners and related roles across the sector understand and comply with the Government's pension reforms;
- we provided the staff training resources for the Pension Wise delivery partners on behalf of HM Treasury; and
- since then, we have been leading an initiative to embed a professionalism culture change across the sector on a voluntary basis.[4]

## Involving employers

Several research reports point to employers as one of the most trusted direct agents to get consumers engaged in financial decision making. While there a number of limitations in this category, not least the role of small businesses and sole traders. However, the advent of automatic enrolment and widespread workplace pensions means that employers are becoming the most obvious point of contact for many seeking help as they approach retirement.

Respondents to the Call for Input told FAMR that employers should play a bigger role in helping their employees to access financial advice and guidance. FAMR believes that the workplace presents an opportunity to address the advice gap, and the evidence suggests that consumer demand for access to advice through the workplace is strong.

| **Recommendation 11:** | **Owner:** FCA/TPR | **Indicative timing:** publish early 2017 |
|---|---|---|
| Publish and promote a new factsheet to set out what help employers and trustees can provide on financial matters without being subject to regulation. | | |

A targeted factsheet could be used to provide some clarity on, and dispel some common myths about how current regulation applies to employers and trustees.

| **Recommendation 12:** | **Owner:** FAMR working grp | **Indicative timing:** publish early 2017 |
|---|---|---|
| Work with employers to develop and promote a guide to the top ten ways to support employees' financial health. | | |

The top-ten guide will draw on existing employer best practice and include the following:

- Actively referring employees to publicly available guidance.
- Facilitating financial advice or referring employees to financial adviser directories.
- Providing employees with tools e.g. calculators to help them understand their finances.

The factsheet and top-ten guide will take into account any changes to the advice boundaries and be promoted actively by the FCA and TPR through employer networks to maximise awareness.

| **Recommendation 13:** | **Owner:** HMT | **Indicative timing:** implement Q2-2017 |
|---|---|---|
| Explore ways to improve the existing £150 income tax and National Insurance exemption for employer-arranged advice on pensions. | | |

A number of stakeholders noted the existence of a £150 income tax and National Insurance exemption for advice on pensions arranged by an employer, allowing the employer arranges financial advice for employees, those employees are not liable for tax on the value of the advice as a benefit in kind. It is of limited practical use because if more than £150 is spent, the entire amount becomes taxable rather than just the excess over £150. Given the current cost of full financial advice is usually far in excess of £150, FAMR believes that this exemption could be altered to provide employers with an easy way to support their employees in financial decision-making.

[3] See www.cii.co.uk/qualifications/pensions-update-programme-qualification/

[4] More information will be published on www.cii.co.uk/2016-commitment

The exemption could be made more flexible by removing the cliff-edge which makes the whole amount taxable if the employer provides more than £150 towards the cost of advice. An increase to the exemption would also make it more attractive to employers and employees.

### *Implications*

While these recommendations are intuitively correct, their implementation will be a challenge. Employers, particularly small and medium sized ones, are facing compliance pressures on a range of fronts not least auto-enrolment, national living wage, and apprenticeships. These pressures will increase if the Government changes the pensions tax relief in favour of a Tax-Exempt-Exempt (TEE) system. While the outcomes to these proposed measures (and many of the other initiatives) may be well-meant, the devil will be in the detail.

## Paying for advice and advice processes

The FAMR final report made another interesting suggestion around allowing customers to use part of their pension savings to pay for advice in a voucher system. So rather than the government or industry funding a voucher for regulated advice, the customer pays themselves.

| **Recommendation 14:** | **Owner:** HMT | **Indicative timing:** subject to consultation |
|---|---|---|
| Explore options to allow consumers to access a small part of their pension pot before the normal minimum pension age, to redeem against the cost of pre-retirement advice. | | |

This would also be tax-advantageous under the current EET tax rules (consumers would be able to access part of their accumulated pension funds tax-free), depending on how the allowances. However any change to a TEE system would remove this tax incentive.

### *Implications*

The devil will be in the detail. Offering the public the ability to draw out of their pensions about £500-£1,000 worth of professional financial advice may be attractive to both consumers themselves and the advice sector. This still requires consumers to understand the *value of advice* in order to redeem this voucher, and it carries significant risk of scams and fraud. Addressing these issues would require an appropriate and targeted set of consumer protection safeguards that might in-turn work against the underlying purpose of this policy. The balance will be critical.

| **Recommendation 15:** | **Owner:** FCA | **Indicative timing:** Q3/Q4-2016 |
|---|---|---|
| Take steps to help ensure that firms and advisers are aware of the existing flexibility in the rules on adviser charging. | | |

Problems stemming from commission payment was one of the key trust and confidence concerns of the sector, but the resulting more transparent Adviser Charging has not been without its own problems:

- advisers can only take an ongoing charge if they are providing an ongoing service. They can, however, spread the cost of initial advice for a regular premium product over time.
- some FAMR respondents recommended that commission be reintroduced for financial advice. However, these were outweighed by the opposing view. But this was overwhelmingly outweighed by concerns about lack of transparency and distortion of incentives, FAMR does not believe there is a case to consider this.
- since RDR, issues have also arisen about the use of commission on non-advised sales, particularly the sale of annuities. The FCA will outline its next steps on the issue in a Policy Statement at the beginning of Q2 2016.
- a number of responses suggested that the RDR has removed some flexibility in the way advisers can charge for single-premium products, where the advice charge must be taken upfront.

FAMR believes that instalment-based payments could make financial advice more affordable and accessible for some consumers, provided that the terms of the instalment payments are clear and fair. However, while the existing rules offer appropriate flexibility to charge in instalments, firms do not appear to be using this to offer more convenient payment options to consumers.

| **Recommendation 8:** | **Owner:** FCA | **Indicative timing:** ongoing |
|---|---|---|
| The FCA and industry should continue to work together with the aim of bringing about improvements to suitability reports, reducing their length, where appropriate, and the time firms spend preparing them. | | |

Some FAMR respondents stated that the time taken to produce a suitability report, which communicates a personal recommendation to a client, is a time-consuming aspect of the advice process. Industry bodies suggested that firms are adopting different approaches when producing suitability reports and there is uncertainty around the appropriate level of information to include in the report. The FCA rules require that suitability reports:

- specify the client's demands and needs;
- explain why the firm has concluded that the recommended transaction is suitable for the client having regard to the information provided by the client; and
- explain any possible disadvantages of the transaction for the client.

The existing FCA rules on suitability are not prescriptive, in order to allow different firms flexibility in designing their suitability reports to meet regulatory requirements.

| **Recommendation 10:** | **Owner:** FCA | **Indicative timing:** consult early 2017 |
|---|---|---|
| Consult on guidance to provide clarity on the standard types of information required as part of the fact find process. In addition, the guidance should also set out key considerations for verifying a fact find that has been performed by third parties. | | |

The fact find can be a lengthy process, and some firms told FAMR that they would value greater clarity on the extent to which they can rely on "standardised" information from third parties to help them make a suitability assessment.

FAMR believes that greater clarity for firms on the fact find process could help them to reduce some of the costs associated with advice. In the longer term, FAMR believes that technology has a role to play in supporting the development of a standardised, portable fact find.

## Dashboards and technology

Finally as expected, the Government has embraced efforts to improve technology solutions for advice.

| **Recommendation 9:** | **Owner:** FCA | **Indicative timing:** pilot to run |
|---|---|---|
| The FCA should build on the success of Project Innovate and establish an Advice Unit to help firms develop their automated advice models. | | |

This would comprise of two key components delivered by the FCA:

- **a general toolkit that all firms providing advice to consumers can access:** this could include best practice on methodologies for testing and evaluating automated advice models; a bespoke guide for firms looking to deliver automated advice to consider when undergoing the authorisation process; and standardised testing scenarios which firms could use to gauge the effectiveness of their models.
- **individual guidance and support to firms:** with propositions with a high potential impact on the advice gap. The objective would be to give firms access to ongoing feedback on the regulatory implications and consumer outcomes as they develop and test their automated models.

| **Recommendation 16:** | **Owner:** HMT and industry | **Indicative timing:** technology available to consumers in 2019 |
|---|---|---|
| Challenge the industry to make a pensions dashboard available to consumers, bringing together industry and consumer representatives to help them set direction and drive progress. | | |

Again this is regarded as a quick win and something both consumer groups and the sector would welcome. It would be consistent with the CII's own research on customers needing information efficiently when and how they want.

## Engaging consumers

Several recommendations were made around the theme of better engaging consumers on the role of financial advice and guidance.

**Recommendation 17:** **Owner:** FAMR wkg grp **Indicative timing:** shortlist published Q3/Q4-2016

Publish a shortlist of potential new terms to describe "guidance" and "advice", with the final choice of words and approach to implementing them to be confirmed after market research and consumer testing.

Improving the way in which different services are described to consumers has the potential to improve consumer understanding and encourage consumer engagement with financial advice. FAMR therefore supports the use of simpler terms that consumers can easily understand, emphasising the regulated advice/guidance distinction.

**Suggested terms for advice and guidance (Box 6, p.49)**

| Guidance | Advice |
|---|---|
| • Financial guidance | • Financial advice/planning |
| • Guidance without a personal recommendation | • Advice with a personal recommendation |
| • Assisted self help | • Specialist advice |
| • General advice | • Regulated financial advice |
| • Financial help | • Professional advice |
| • Tailored information | • Personal advice |

The labels should explain in simple, plain English:

- The nature of the service to the consumer, especially whether it involves a personal recommendation or not;
- The implications of the nature of the service for the consumer's decision-making, i.e. whether the consumer is responsible for making their own investment decision based upon the guidance provided by the firm, or being provided with a recommendation on how best to meet their objectives based upon their personal circumstances;
- The consequences of the nature of the service in the event that something goes wrong. i.e. the basis on which the consumer is likely to be able to complain to the firm or take their complaint to the Financial Ombudsman Service.

**Recommendation 18:** **Owner:** FAMR wkg grp **Indicative timing:** initial testing complete Q1-2017

Lead a task force to design and test a set of rules of thumb and nudges.

**Recommendation 19:** **Owner:** HMT **Indicative timing:** responsibility assigned Q1/Q2-2017

Assign the continuing responsibility for the rules of thumb and nudges to an appropriate body with financial capability expertise. This body will be responsible for updating the rules of thumb and nudges, and encouraging the use of them by employers, government agencies and charities.

The Working Group should consider nudges and rules of thumb:

- **Prompts for people to consider their financial situation:** there may be nudges that could be delivered at relevant life stages to prompt consumers to consider whether they have the financial products to meet their needs. For example, *when starting a family, consider whether you could cope financially if your income stopped because of illness or accident, or whether you could benefit from taking out income protection.*
- **Rules of thumb:** refers to simple principles which are generally reliable in the absence of full advice, such as broad steers on how to achieve a certain financial goal. For example, *have three months' income available in an instant access savings account to help you cope with unexpected circumstances.*

## Liability and consumer protection

The report included several recommendations around liability. The review aimed to balance:

- the need to give financial advice providers confidence that if their advice is professional and suitable, they will not be exposed to unquantifiable costs in the future with; and
- the need to ensure that where customers do suffer as a result of poor advice, they are able to access the appropriately high levels of consumer protection currently available.

**Recommendation 20:** **Owner:** FCA consult **Indicative timing:** Q4-2016

The FCA regularly undertakes funding reviews of the FSCS, and FAMR recommends that the 2016 FSCS Funding Review should specifically explore risk-based levies, reforming the FSCS funding classes, and more extensive use of the FSCS credit facility. The review should explore the merits, risks and practicalities of alternative approaches.

**Recommendation 21:** **Owner:** FCA **Indicative timing:** Q3/Q4-2017

Following its review of FSCS funding, in light of evidence received as to the impact of the professional indemnity insurance (PII) market on FSCS funding, the FCA should consider whether to undertake a review of the availability of PII cover for smaller advice firms.

**Recommendation 22:** **Owner:** FOS **Indicative timing:** Q3/Q4-2016 onwards

Consider undertaking regular 'Best Practice' roundtables with industry and trade bodies where both sides can discuss relevant issues such as the evidence used when considering historic sales and suitability requirements.

**Recommendation 23:** **Owner:** FOS **Indicative timing:** Publish after FOS Data Review 2017

The Financial Ombudsman Service should publish additional data on its uphold rates, specifically around cases where advice was given more than fifteen years before the complaint was made, and a breakdown of financial adviser uphold rates by product. The Financial Ombudsman Service should consider the best way to do this as part of its review into its approach to publishing data more generally and update its stakeholders later this year.

**Recommendation 24:** **Owner:** FOS **Indicative timing:** establish summer 2016

Consider whether to establish a more visible central area for firms on its website bringing existing resources (e.g. summary of approach, technical guidance notes, case studies etc) together in one place to help advisers.

**Recommendation 25:** **Owner:** FOS **Indicative timing:** Expand report published in 2017

The report of the Financial Ombudsman Service's appointed Independent Assessor should be expanded to include a more in-depth analysis of the cases they consider and identify potential areas for process improvement from 2017.

**Recommendation 26:** **Owner:** n/a **Indicative timing:** n/a

The FCA should not introduce a longstop limitation period for referring complaints to the Financial Ombudsman Service. As part of the review in 2019, the FCA and HMT will consider any ongoing trends and the impact of the Financial Ombudsman Service's complaints data relating to advice on long-term products.

## Implications from Budget 2016

The Chancellor's Budget Statement on 16 March included some announcements relevant to FAMR. The Treasury will:

- consult on altering the definition of advice "to remove the regulatory uncertainty and ensure that firms can offer to consumers the help they need" (Recommendation 2).
- ensure that the industry design, funds and launches a pensions dashboard by 2019 (Recommendation 16)
- increase the tax/NI relief for employer-arranged pension advice from £150 to £500 (Recommendation 13).
- consult on a Pensions Advice Allowance to provide consumers with a tax-efficient way of using their pension savings to fund financial at- or pre-retirement financial advice (Recommendation 14).

The Government also announced the introduction of Lifetime ISAs, an incentivised Taxed-Exempt-Exempt (TEE) approach to long-term savings and pensions taxation for young adults aged 18-40, which could either be used to fund retirement and or a first property.

Although the Treasury delayed its wider pensions tax relief decision; the Lifetime ISA *could* be a precursor to a move towards a TEE-based system rather than a flat rate. A TEE system would undermine the tax incentive of the Pension Advice Allowance proposal: at-retirement tax relief would no longer be necessary. For more information, see our Budget 2016 policy briefing: www.cii.co.uk/40308

## Some responses from stakeholders

### The Chartered Insurance Institute

See our response to FAMR: www.cii.co.uk/39253

We welcome the FAMR final report. It contains many sensible recommendations that are consistent with our own views. We believe many of the proposals, provided they are properly implemented, will help to improve the public's access to the help they need for financial decision making.

First we are encouraged that FAMR shares our view that the "advice gap" is a demand-led issue around lack of consumer engagement and understanding of the value of advice. We think that steps to educate the public on the importance of professional advice especially in the context of accessing retirement savings are essential.

We also strongly welcome the review of the advice definition in line with MiFID personal recommendation will be an important "silver bullet" to help providers and advisers alike help consumers without the fear of straying into professional advice. This would help to give firms the confidence in serving the public in a constructive and helpful manner, and would be attractive to customers depending on whether those services meet Standards of Training, Accreditation and Revalidation (STAR).

We think the target to have pensions dashboards available by 2019 is a major step forward and boon for consumers. Our own research published last month revealed that consumers need tailored information about their pensions how and especially when they want.

The key to all these reforms will be the implementation. We look forward to actively participating in discussions on their practicalities.

### The Association of British Insurers (Director of Regulation: Hugh Savill):

- pleased that the Financial Advice Market Review makes recommendations similar to the package of measures that they had proposed, to improve consumer access to financial advice and guidance;
- consumers should benefit from innovation in robo-advice and the Pensions Dashboard, which HMT and the FCA should play a key role in driving forward jointly with the industry.

### Which? (Director of Campaigns: Alex Neill):

- the Review is right to reject longstops and makes a number of sensible recommendations that could help to make financial advice more accessible and affordable;
- people need more support when making important financial decisions;
- looks forward to the development of a pensions dashboard, which will help millions of people make more informed decisions at retirement."

### Old Mutual Wealth (Chief Distribution Officer Richard Freedman):

- making it more cost-effective for employers to contribute to the cost of advice will encourage uptake;
- the workplace can be the best environment to get people thinking about the need to build a financial plan and improving the economic case for employers to contribute to the cost of advice is positive.

### British Bankers' Association (Chief Executive: Anthony Browne):

- consumers increasingly want access to advice and guidance when making big financial decisions, such as handling their pension. This review will help make it easier for banks to offer customers the help they need so they can take informed decisions and better manage their money.

### Association of Professional Financial Advisers (Director General: Chris Hannant):

- welcome and support the review's analysis of the problem of ensuring more widespread access to financial advice;
- more could be done and the conclusions represent a missed opportunity: while many of the proposals will be helpful, concrete measures beyond further clarification and guidance are needed;
- will continue to work with FCA and Treasury, but expect need to revisit the debate about access in the near future as I think further steps need be taken.

***CII Group Policy & Public Affairs***
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