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Parliamentary Briefing on the Financial Guidance and Claims Bill

The Financial Services Consumer Panel is an independent statutory body, set up to represent the interests of consumers in the development of policy for the regulation of financial services in the UK. This briefing is intended to inform Parliamentarians of our observations on the Bill from a consumer perspective. Our recommendations are in bold type.

The Panel has long argued for a single financial guidance body (SFGB), and we support the intention behind this Bill. We have not considered in detail the provisions of the Bill relating to claims management.

Statutory functions and objectives

In general, we support the statutory functions set out in Clauses 2(1) to 2(7).

However, we have some concerns:

- Clause 2(4) does not refer to the state pension, or other means of securing an income in retirement. Many people enquiring about pensions will need a holistic view of all their assets and liabilities. It may be that Clause 2(3) is broad enough, or that holistic guidance about pensions can fall under the money guidance function. However, it may be helpful to **amend Clause 2(4) to clarify the pensions function and to ensure that the SFGB can give people all the information and guidance that they need about retirement choices.**
- Clause 2(5) gives the SFGB a duty to provide debt advice. It can subcontract this function under Clause 4. We observe this is a stronger requirement than that in the Financial Services Act 2012, which gave the Money Advice Service a duty to "work with other organisations which provide debt services" [to secure improvements in availability, etc].
- Clause 2(7) gives the SFGB a duty to 'support and co-ordinate' the development of a national strategy. This begs the question of who leads the national strategy, and how governance and accountability should operate. We believe that **the SFGB should be given a clearer mandate to 'develop and deliver' the national strategy.**
- Clause 2(8)(b) again requires the SFGB to 'support', in this case the provision of information, guidance and advice in areas where it is lacking. This implies that, where the financial services industry gives consumers information or guidance about products and services then there is no need for the SFGB to do so. Indeed, the industry could challenge the SFGB if it did anything the industry was already doing. What differentiates the SFGB is that its information and guidance should be impartial and sales-free. For example, a commercial comparison website that takes commission from providers on its lists is very different from a factual comparison table presented by an impartial body that provides information based on consumer needs, objective

findings and key metrics. Likewise, guidance on types of investment is different when it leads to a product sale than when it is helping a consumer through their options. Information and guidance must be impartial, and never intended to lead to a product sale, however indirectly. We believe, therefore, that **the word 'impartial' should be inserted before 'information' in clauses 2(4-6) and 2(8)(b-e).**

The Money Advice Service had statutory functions that have not been included in this Bill:

- promoting awareness of the benefits of financial planning;
- promoting awareness of the financial advantages and disadvantages in relation to the supply of particular kinds of goods or services;
- promoting awareness of the benefits and risks associated with different kinds of financial dealing, which includes informing the Financial Conduct Authority and other bodies of those benefits and risks; and
- publishing educational materials or the carrying out of other educational activities.

These omissions do not generally appear significant given the broad power in 2(3). However, dropping the requirement to inform the FCA of consumer risks is potentially significant, although there is an information gateway in 12(3). The Bill also gives powers to the Secretary of State to issue directions to the FCA, which could be a direction in relation to regulated entities. This potentially compromises the statutory independence of the FCA.

It would be useful to clarify the relationship between the FCA and SFGB. The FCA issues a lot of consumer information, much of which could – and arguably should – be provided by the SFGB under the money guidance function. We would like to see a requirement on the FCA to consult the SFGB when it communicates directly with consumers, through an MoU if not on the face of the Bill.

Delegation of functions

We are pleased that the government has decided to give the SFGB the power to decide when it is most effective to delegate any of its functions. That means that the SFGB will be able to continue a 'direct to consumer' service, and that the investment in the Money Advice Service website and tools will not have been wasted.

Setting standards

We are pleased to see that the SFGB will have standard setting powers, which will enable it to ensure guidance is of high quality. However, debt management providers are regulated by the FCA and subject to FCA rules. Clause 6(1)(b) raises the prospect of dual regulation or standards that diverge from the rules. FCA approval should provide sufficient safeguard, and there are precedents for standards setting bodies – e.g. the Lending Standards Board – co-existing with conduct regulation.

Microbusinesses

Finally, we would like to see the reach of the SFGB extend to the self-employed and microbusinesses. Many smaller business owners have the same financial needs as do individual consumers, and often run their business from their personal current account, or mortgage their home to raise finance. Many are not saving in a pension. The Bill only gives the SFGB duties in respect of 'members of the public', which could include the self-employed, but not microbusinesses carried on by partnerships or limited companies. If, as a matter of policy, Parliament thought small businesses should be in scope, the Bill would need amending.