



Assets, Savings and Consumers
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

15th November 2016

Dear Sir/Madam,

FCA SMALLER BUSINESS PRACTITIONER PANEL RESPONSE TO CONSULTATION ON AMENDING THE DEFINITION OF FINANCIAL ADVICE

The FCA Smaller Business Practitioner Panel (the Panel) is pleased to respond to this consultation, which it considers to be helpful in clarifying issues surrounding the area of advice.

The Panel supports the FCA in its work by providing a perspective from the viewpoint of smaller regulated firms. It has actively engaged with the FCA's work on financial advice, and supported the work of the Retail Distribution Review. In addition, several members of the Panel were also members of the Financial Advice Market Review (FAMR) Expert Group and continue to serve on the Financial Advice Working Group (FAWG).

In our joint submission with the FCA Practitioner Panel to the FAMR call for evidence last year¹ we stated that the landscape which needs to be addressed is around the broader issue of guidance, not just regulated advice. Consumers themselves do not generally differentiate between regulated advice and guidance, and tend to use the terms interchangeably. There is currently a clear divide between the full advice process on the one hand and simple guidance on the other. The key issue is that the rules in the area in between, where customers need some personalised direction but not a full factfind, are not clear. Firms are wary of operating in that space, which is where the majority of potential customers are found.

Overall, we welcome the proposals in this consultation as a further step towards clarity. We also have some further suggestions as to how the proposals could be communicated to the industry. Our comments are supported by the members of the FCA Practitioner Panel.

Question 1

Is the proposed wording a suitable and effective way to achieve the stated policy objective? Is there anything else needed in drafting terms in order to achieve the policy objective set out above?

There is a fear within the industry of crossing the line between advice and guidance and firms can be reluctant to engage in case they cross this line. We consider this fear to be a key driver of the mid-market advice gap. We appreciate that the proposals do not move this line, but agree that they help to reduce the grey area on either side.

¹ Available at https://www.fca-pp.org.uk/sites/default/files/pp_and_sbpp_response_to_famr_call_for_input_final_0.pdf

Question 3

Can you provide further detail of the costs and benefits associated with the change, including quantifying them where possible?

The new definition makes a significant difference to the independent advisory sector since regulated advice now has to relate to the recommendation of a particular product. This is a pragmatic solution which will help many advisory firms where advice does not relate to the recommendation of a product. It may also have read-across benefits to advisory businesses that currently obtain debt advice permissions to cover debt advice where debt advice is 'incidental' to their main activities and does not relate to a particular product recommendation. In such circumstances firms feel obliged to obtain a regulated activities permission simply to ensure they are not caught out by the wide ranging nature of current FCA rules.

Question 9

Is there anything else that we should consider in the context of this change to deliver affordable and accessible advice to consumers?

It would be useful if the FCA could include some examples of the different adviser scenarios when it publishes its guidance in this area. This would be helpful to clarify further what is and is not acceptable and where the line lies.

We would be happy to discuss this further if required.

Yours faithfully,

CLINTON ASKEW
Chair, FCA Smaller Business Practitioner Panel