



HM Treasury



FAMR

Financial Advice Market Review

Progress report

April 2017

FAMR progress report

Introduction

The Financial Conduct Authority (FCA) and HM Treasury (HMT) are reporting on our progress towards implementing the Financial Advice Market Review (FAMR) recommendations. We have completed or are on track to complete all of the FAMR recommendations. We go through them in this progress report.

Why review the market?

FAMR was launched in August 2015 in light of concerns that the market for financial advice was not working well for consumers.

There have recently been far-reaching changes to the UK's pensions system as well as longer term social and demographic shifts, such as an ageing population and changing employment patterns. These combine to present people with more complex and varied decisions. But they are making many of these decisions without taking advice or guidance.

The Review aimed to explore ways in which the government, industry and regulators could take collective steps to stimulate the development of a market which delivers affordable and accessible financial advice and guidance to everyone, at all stages of their lives.

Recommendations

FAMR's final report, published in March 2016, set out 28 recommendations intended to tackle the barriers to consumers accessing advice and foster a market with the following characteristics:

- **Good availability of affordable, high quality advice and guidance**, which supports consumers at all stages of their lives.
- **Greater innovation in the interests of consumers**, encouraged by a flexible and well-understood regulatory framework for advice.
- **A range of channels** through which consumers are able to access advice and guidance, including in the workplace, and appropriate flexibility in the way consumers are able to pay for advice.
- **Consumers that are engaged with their own financial affairs** and so seeking out the advice and guidance they need.

FAMR recommended establishing a Financial Advice Working Group (FAWG), formed of consumer and industry experts, to support progress in the 12 months following the Review's final report. Since June 2016, the FAWG has conducted a significant amount of consumer research, working closely with key stakeholders across the industry, as well as the FCA and HMT, to progress the three recommendations FAMR assigned it. The FCA and HMT would like to thank the members of the FAWG for their work.

The FAMR recommendations focused on advice on saving into a pension, taking income in retirement and investing, and envisaged action in three main areas:

- **Affordability**

FAMR concluded that mass-market advice must be more cost-effective and recognised that new technologies can play a major role in driving down costs and enabling firms to engage with consumers more effectively.

Among its recommendations was a proposal that the FCA should set up a dedicated team to help firms developing mass-market automated advice models bring them to market more quickly.

In response, the FCA set up its Advice Unit in May 2016, providing regulatory feedback and support to firms developing automated advice models. These could deliver lower cost advice to unserved or underserved consumers. The Advice Unit is currently working with 10 firms and will shortly start working with a further cohort of firms. It will also publish tools and resources to help all firms in the financial advice space, informed by its experiences and insight from work with individual firms.

FAMR also recommended clarifying the legal and regulatory environment to help firms develop streamlined advice or guidance services. In response, HMT laid legislation in early 2017 which narrows the definition of regulated advice for most regulated firms. This will give these firms greater confidence to provide guidance services which support customers who want help making their own decisions. The FCA is also consulting on guidance to help firms in this area.

- **Accessibility**

As well as addressing cost factors, FAMR also stressed the importance of tackling barriers which prevent consumers from seeking out advice and other forms of support. Many people are disengaged, unsure how to find good financial advice or lack confidence with financial decisions. FAMR proposed measures to help consumers engage more effectively with advice and guidance.

For example, the workplace presents an opportunity to help more people access financial guidance and increase take-up of financial advice. The FAWG has created a guide for employers to support their employees' financial well-being and hopes that the guide will be made fully available later in 2017. The FCA is consulting on a new factsheet setting out what help employers and trustees can provide on financial matters without being subject to regulation. The FAWG has also developed a set of 'rules of thumb' and principles for nudges that can prompt people to take action to improve their financial well-being.

The government introduced measures that make it easier for consumers to pay the upfront cost of advice, which FAMR found can discourage people from engaging. A new Pensions Advice Allowance, which will allow people to withdraw £500 from their pension pot at any age to pay for retirement advice, and a £500 tax exemption for employer arranged pensions advice will be available from April 2017.

- **Liabilities and consumer redress**

Many firms said they were deterred from providing advice because of uncertainties about future liability. To address these concerns, FAMR made recommendations to make it clearer how the Financial Ombudsman Service (FOS) deals with consumer complaints and in relation to the funding of the Financial Services Compensation Scheme (FSCS).

In response, the Financial Ombudsman Service has already started holding ‘Best Practice’ roundtables with industry and trade bodies, publishing more information relevant to financial advisers and launching a more visible central area for firms on its website. In addition, the FCA is carrying out a fundamental review of the funding mechanism for the FSCS levy and consulted on proposals in CP16/42 in December 2016.

A coordinated approach

Taken together, the package of measures has the potential to promote a tangible improvement in the affordability and accessibility of advice and guidance. However, continued focus is needed to ensure the measures are effective and this can only be achieved through a multi-faceted approach. To improve the affordability and accessibility of advice and guidance, continued commitment and co-operation is needed – not only from regulators and the government, but also employers, consumer groups and the financial services industry.

FAMR recommended that the FCA and HMT jointly report on progress after 12 months. This publication meets that commitment. This is the final update on progress from the FCA and HMT ahead of 2019 when they will conduct a review of the outcomes from FAMR.

The Review’s policy recommendations

The FAMR recommendations covered a range of issues including:

- Recommendation 1 – the formation of the FAWG
- Recommendations 2 to 10 – affordability
- Recommendations 11 to 19 – accessibility
- Recommendations 20 to 26 – liabilities and consumer redress
- Recommendations 27 to 28 – implementation

We report against each recommendation below.

The formation of the FAWG

Recommendation 1:

To support progress over the next 12 months, members of the FAMR Expert Advisory Panel should form a Financial Advice Working Group, together with members of the FCA Consumer, Practitioner, and Smaller Business Practitioner Panels.

Completed: The FAWG was established in June 2016 incorporating members from the FAMR Expert Advisory Panel¹ and the FCA statutory panels. It has been chaired by Nick Prettejohn with three dedicated subgroups as well as the core Working Group. The work of the FAWG has focused on Recommendations 12, 17 and 18.

Affordability

Recommendation 2:

HMT should 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).

Completed: There was strong consensus that bringing the UK definition of advice in line with the Markets in Financial Instruments Directive (MiFID) definition of advice as a personal recommendation would allow firms to increase the amount of help they give consumers with simple needs, for whom regulated advice may not be economical. HMT published a consultation in September 2016 on amending the definition of financial advice, which ran for 12 weeks.

While most respondents supported the proposed change, a number expressed concerns that unregulated individuals and companies may attempt to deliver ‘advice’ that stops short of a personal recommendation, but nevertheless is intended to persuade consumers to purchase risky investment products. If authorisation was not required to give this ‘advice’, the FCA may not have been able to take action to prevent this. So HMT responded to the consultation setting out plans to change the definition of regulated advice for most regulated firms, leaving the current advice boundary in place for unregulated firms. The new definition of financial advice means that regulated firms will only be providing financial advice when they offer a personal recommendation.

The new definition of financial advice will give greater certainty to regulated firms, allowing them to better help their customers make their own decisions about financial matters while ensuring that consumers continue to be protected from unregulated individuals and companies. Firms who responded to the consultation felt they would be more confident in providing information and guidance to their customers under the new definition. For example, under the new definition firms will be able to:

- contact customers to let them know that they have not used their ISA allowance in a given tax year
- provide information on the risk profile of the funds available within their stocks and shares ISA or
- highlight that a customer has never increased their pension payments

The FCA has published a short explanatory note alongside the government response, and will consult on new guidance on the advice boundary later in 2017, so it is clear to firms how the changes to the definition of advice will work in practice.

¹ The Panel comprised senior representatives of firms and consumers.

Recommendation 3:

The FCA should 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.

Consultation underway: The FCA has met with firms and trade associations to discuss where to improve existing guidance. The FCA has published a guidance consultation.

Recommendation 4:

The Review recommends 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.

Consultation underway: The FCA has sought feedback from firms on areas where they would like further clarification. Firms were invited to join a roundtable and bilateral meetings, as well as to input through the Advice Unit (see Recommendation 9). The FCA has published guidance for consultation to help illustrate the streamlined advice process, including case studies and specific examples.

Recommendation 5:

As one of the measures to help develop a simple and clear advice framework, the FCA should consult on 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.

Completed: The FCA consulted on extending the current 30-month time limit to 48 months (four years) in Quarterly Consultation Paper No.15 (CP16/39), published on 2 December 2016, and invited comments by 2 February 2017. The FCA has published a response to the consultation.

Recommendation 6:

The FCA should consult on guidance about the cross-subsidisation rules in relation to the interpretation of ‘long term’ and the flexibility allowed.

Consultation underway: The FCA consulted on this in Quarterly Consultation Paper No.15 (CP16/39), published on 2 December 2016, and invited comments by 2 February 2017. The FCA has proposed some changes to the Conduct of Business sourcebook (COBS) on adviser charging for vertically integrated firms (VIFs). The FCA is aiming to publish final rules in April 2017. The guidance incorporates not only the FAMR recommendation but also other minor changes intended to clarify FCA expectations.

The FCA has proposed guidance on adviser charges for VIFS. These are likely to meet the rule on being reasonably representative of the cost of the services associated with making the personal recommendation (and related services) where they are reasonably capable of being self-supporting over:

- a period of five years or
- over five years where this is consistent with a firm’s established timeframe for measuring return on capital

This makes it clear what timings and degree of flexibility the FCA expects. The consultation also proposed replacing the concept that adviser charges should not be cross-subsidised with the concept of ‘self supporting’ adviser charges, which is more self-explanatory.

Recommendation 7:

HMT should ensure in transposing and implementing MiFID II that, while meeting obligations under EU law, it does not undermine the FCA’s ability to follow through with the proposals which are designed to give firms the confidence to deliver streamlined advice.

On track: HMT is continuing to monitor MiFID II implementation and is working closely with the FCA and the Prudential Regulation Authority (PRA) to ensure that it does not undermine the FCA’s ability to publish guidance giving firms the confidence to deliver streamlined advice. Following consultation, detailed implementing measures are due to be published by mid-2017 and MiFID II is expected to apply from 3 January 2018.

Recommendation 8:

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.

Completed: The Association of Professional Financial Advisors (APFA) published guidance in December 2016 to help its members understand the FCA’s expectations for clear and concise suitability reports. The guidance was developed after discussions involving APFA, the Personal Finance Society (PFS), the FCA and the Financial Ombudsman Service. The guidance was written in line with the FCA’s Smarter Consumer Communications initiative which seeks to change the way firms communicate and deliver information to consumers.

Recommendation 9:

The FCA should build on the success of Project Innovate and establish an Advice Unit to help firms develop their automated advice models.

Completed: The FCA set up its Advice Unit in May 2016 with a focus on models which will serve the gaps in the market identified by FAMR: investments, protection and pensions. The Advice Unit provides regulatory feedback to firms developing automated advice models which meet its published eligibility criteria. A first tranche for applications opened on 31 May and closed on 1 July 2016. Nineteen firms applied in the first tranche and nine were accepted. In addition, one firm was referred to the Advice Unit from the FCA’s regulatory sandbox.

A second tranche for applications opened on 3 January and closed on 3 February 2017. The Advice Unit will shortly start working with a further cohort of firms. In 2017, the Advice Unit will publish tools and resources which may be useful to all firms in the financial advice space, informed by the experiences and insight it has gained in its work with individual firms.

Recommendation 10:

The FCA should 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.

Consultation underway: The FCA has consulted on guidance alongside its consultation on streamlined advice. The consultation explores the different elements of information collected in fact finds and the amount of content that is standard across the industry. It distinguishes between the objective and subjective items of customer information firms collect. It also considers the potential for portability, both the benefits that it might bring and the limitations that exist.

Accessibility

Recommendation 11:

The FCA and the Pensions Regulator (TPR) should develop and promote a new factsheet to set out what help employers and trustees can provide on financial matters without being subject to regulation.

Consultation underway: The FCA and the Pensions Regulator (TPR) have developed this factsheet, which will complement existing perimeter guidance. A factsheet has been published for consultation.

Recommendation 12:

The Financial Advice Working Group should work with employers to develop and promote a guide to the top ten ways to support employees' financial health.

On track: A dedicated subgroup of the FAWG has created a guide for employers to support their employees' financial well-being. The subgroup hopes this web-based guide will help deliver higher levels of financial resilience.

In developing the guide, the subgroup undertook a detailed literature review, expert interviews and consumer research with over 240 employers and 40 employees across a series of telephone interviews and focus groups. The primary research covered employers of various sizes and employees of different ages across the UK. The findings showed that almost 60 per cent of employers would find work-based support helpful.

The subgroup has worked with the Money Advice Service and hopes that the guide will be made fully available later in 2017. The web-portal is currently available in beta test.

Recommendation 13:

HMT should explore ways to improve the existing £150 income tax and National Insurance exemption for employer-arranged advice on pensions.

On track: HMT will legislate in the Finance Bill 2017 to increase the existing income tax and National Insurance exemption for employer-arranged advice on pensions from £150 to £500. The changes will come into effect from April 2017.

The exemption will also be improved by:

- removing the current ‘cliff edge’, which means that if an employer pays more than £150 for financial advice, the first £150 is not eligible for the tax exemption
- broadening the scope of the advice that is eligible for the exemption so it includes general financial and tax matters related to pensions

The tax exemption will be available to employees using salary sacrifice arrangements.

Recommendation 14:

HMT should 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.

On track: A new Pensions Advice Allowance will come into effect from April 2017. This will allow people to withdraw up to £500 tax free from their pension pot to redeem against the cost of pensions or retirement advice. The allowance will be available at any age, and can be used up to three times in total. HMT published draft regulations on 3 February 2017, along with further detail on how the allowance will operate.

Recommendation 15:

The FCA should take steps to help ensure that firms and advisers are aware of the existing flexibility in the rules on adviser charging.

Completed: In December 2016 the FCA published information explaining that its rules do not prevent firms from allowing clients to pay in instalments for advice on a lump sum investment. It also explained that an adviser may need to hold permission to enter into a regulated credit agreement as lender, unless an exemption for payments by instalments applies. To meet the exemption, there must be no more than 12 instalments within 12 months, and no charges or interest for the credit agreement (and so no administration fee).

Recommendation 16:

HMT should 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.

On track: HMT has been supporting industry in designing and delivering a pensions dashboard by 2019. Since Budget 2016, HMT has pushed ahead with an innovative project-based approach. This has involved working with 17 pension companies, representing a cross-section of the industry, to build a prototype of the dashboard which has now been delivered. The Association of British Insurers is project-managing the prototype on behalf of HMT.

The prototype is expected to set the foundation for an industry-wide rollout, and may have multiple dashboards to meet the different needs of individual consumers. HMT worked closely with the regulators to ensure that any legal or regulatory issues were considered during the build of the prototype.

Recommendation 17:

The Financial Advice Working Group should 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.

On track: A dedicated subgroup of the FAWG has been looking at ways to enhance consumer understanding of the services available under ‘guidance’ and ‘advice’. This work has looked at providing consumer friendly descriptions as well as the potential for improving understanding through changing the terms.

Each new term and descriptor has undergone rigorous consumer testing, carried out in fourteen 90-minute focus groups across the UK and a subsequent online forum.

The second stage of research has tested the potential new terms and their associated explanations with a larger sample of consumers via a quantitative survey with 1006 participants, and 16 in-depth telephone interviews. The subgroup has submitted a report to the FCA and HMT.

Recommendation 18:

The Financial Advice Working Group should lead a task force to design and test a set of rules of thumb and nudges.

On track: A dedicated subgroup of the FAWG has developed a set of rules of thumb and principles for nudges that can prompt people to take action to improve their financial well-being.

The rules of thumb are designed to meet people’s common financial needs, identified in interviews and focus groups. They are based on a global survey of 10,000 academic papers and other evidence on existing rules of thumb and nudges, over 30 in-depth expert interviews, and testing with over 70 people in focus groups across the UK. The subgroup has also developed principles for nudges, based on the expert interviews, and identified potential ‘nudge agents’ who are well placed to prompt action. These include government agencies, employers and financial services providers. Further work is needed to test the effectiveness of the rules of thumb; and to develop nudges. This will include identifying and mobilising nudge agents, and testing what works in terms of timing and channel delivery. The subgroup has submitted a report to the FCA and HMT.

Recommendation 19:

HMT should 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.

On track: The government is currently reviewing responses to the *Public Financial Guidance Review: consultation on a Single Body*, which outlined plans to consolidate the financial guidance it sponsors into a single financial guidance body (SFGB). The creation of the SFGB is subject to the Cabinet Office approval process for arm’s-length bodies. As the government reviews the SFGB’s scope and strategy, it will consider whether it is the most appropriate body to update and promote the rules of thumb and nudges developed by the FAWG. The government will also review whether the Money Advice Service is the best-equipped body to host them before the creation of the SFGB.

Liabilities and consumer redress

Recommendation 20:

The FCA regularly undertakes funding reviews of the Financial Services Compensation Scheme (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.

Consultation underway: The FCA is carrying out a fundamental review of the funding mechanism for the FSCS levy and consulted on proposals in CP16/42 in December 2016. The paper included a mix of immediate consultation proposals and more far-reaching proposals for discussion. The FCA will consider feedback received, report back on it and aims to publish some final rules in a Policy Statement in 2017. It will also consult further in 2017 on specific proposals where CP16/42 sets out a range of options, and make final rules on those areas in 2018.

Recommendation 21:

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.

Consultation underway: In CP16/42 (published in December 2016), the FCA outlined the case for strengthening the PII cover of personal investment firms and posed some questions about the impact and effectiveness of PII cover. The FCA will consider the responses to these questions and undertake a detailed review of available data and evidence in 2017. Depending on the outcome of this review, the FCA may subsequently consult on draft rules.

Recommendation 22:

The Financial Ombudsman Service should 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.

Completed: The Financial Ombudsman Service has been holding ‘Best Practice’ roundtables with industry and trade bodies where relevant issues are discussed, such as the evidence used when considering historic sales and suitability requirements. In 2016 the Financial Ombudsman Service hosted roundtables in Glasgow, Stockport and London and joined FCA roundtables in Stirling, Peterborough, Birmingham and London.

Recommendation 23:

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.

Completed: The Financial Ombudsman Service has started to publish more information which may be relevant to financial advisers. It published a breakdown of financial adviser uphold rates by product in its 2015-16 annual review and in autumn 2016 consulted more broadly on the data it publishes. Following this, the Financial Ombudsman Service has committed to publish in its annual review the details of cases about financial advisers where the event being complained

about happened more than 15 years before the complaint. It will also publish six-monthly data in subsequent issues of its regular newsletter ‘ombudsman news’.

Recommendation 24:

The Financial Ombudsman Service should consider whether to establish a more visible central area for firms on its website by summer 2016, bringing existing resources (e.g. summary of approach, technical guidance notes, case studies etc) together in one place to help advisers.

Completed: The Financial Ombudsman Service has launched a more visible central area for firms on its website, bringing together existing resources along with details of upcoming events and roundtables for financial advisers.

Recommendation 25:

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.

Completed: The Independent Assessor is Amerdeep Somal. She has agreed to expand her report to include a more in-depth analysis of the cases which she has considered, identifying potential areas for process improvement. This will be published later in 2017.

Recommendation 26:

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.

On track: The FCA and HMT will review relevant Financial Ombudsman Service data as part of the FAMR review in 2019.

Implementation

Recommendation 27:

The FCA and HMT should work together over the next 12 months to develop an appropriate baseline and indicators to monitor the development of the advice market. These should then be tracked on an annual basis and published on the FCA website.

On track: The FCA and HMT have been working together to develop indicators to provide an overview of the market for financial advice and establish a baseline to help monitor developments as the FAMR recommendations are implemented. They will also serve as a benchmark against which the FAMR outcomes will be compared in future years against the ‘success factors’ set out in the FAMR Final Report.

This work considers the issues from both supply and demand side perspectives. It also draws on evidence from a wide range of available sources, such as FCA regulatory data, firm surveys and new consumer research commissioned to feed into this baseline. The indicators will be published on the FCA’s website in Q2 2017.

Recommendation 28:

The FCA and HMT should report jointly to the Economic Secretary and FCA Board, 12 months after the publication of this document, on the progress made towards implementation. In 2019, both organisations should conduct a review of the outcomes from FAMR.

On track: This Progress Report provides an update for the Economic Secretary and the FCA Board. The FCA and HMT will review the outcomes of FAMR in 2019.

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