HM Treasury

FCA
FINANCIAL CONDUCT AUTHORITY

Financial Advice Market Review

Final report

March 2016

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Foreword

The Financial Advice Market Review (FAMR) was launched in August 2015 in light of concerns that the market for financial advice in the UK was not working well for all consumers. The aim of the Review has been to explore ways in which Government, industry and regulators can take individual and 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.

The Review has taken place against a backdrop of an increasing need for individuals to take more responsibility for their own financial future. Social and demographic changes such as our ageing population, changes in the housing market, and changing employment patterns, have combined to make the decisions people face more complex and varied. People are, however, making a greater number of these decisions without any, or with only limited, advice or guidance, because of an increasing use of technology and a greater awareness of the cost of advice. This is compounded by a distrust of financial services companies.

The Review has also taken place alongside the introduction of some of the most far-reaching reforms to the UK's pension system in a generation, with the introduction of pensions flexibility in April 2015. It also follows the Retail Distribution Review (RDR), which was introduced three years ago to address the root causes of problems that had persisted in the retail investment market. The RDR aimed to improve the level of professionalism within the intermediary sector, remove the potential for commission bias and enhance consumers' understanding of the services they were receiving.

The Review has explored the supply and demand sides of the market for financial advice and guidance, the barriers to consumers accessing these services and the potential remedies. FAMR launched a public Call for Input on 12 October 2015, and the Secretariat subsequently engaged with a wide range of stakeholders – representing both the industry (including large and small companies) and consumers. We are very grateful to all of those who engaged with us throughout the Review and would like to commend the dedicated work of the FAMR Secretariat team, drawn from across the Financial Conduct Authority (FCA) and HM Treasury (HMT), who have supported us in reaching the conclusions set out in this report. We would also like to thank the Expert Advisory Panel, chaired by Nick Prettejohn, for its valuable contribution to the Review.

This report sets out the findings of the Review. It is clear to us that there are areas where intervention by regulators and Government could help the industry to develop new and more cost-effective ways of delivering advice and guidance to consumers, in particular, through more effective use of technology. It is also clear to us that unless we are able, as a society, to increase consumer engagement with financial services, we will not achieve a long-term, sustainable solution to the issues the Review has identified.

Our report sets out a series of recommendations intended to tackle the barriers to consumers accessing advice. These recommendations are, in part, directed at the FCA and the Government but, consistent with our belief that this issue can only be tackled through a multi-faceted approach, we also make recommendations directed towards employers, service providers and consumers. Our recommendations fall into three key areas:

1. **Affordability** – we believe that the RDR has brought about a positive step change in the quality of advice available to those with larger amounts to invest. However, steps need to be taken to make the provision of advice and guidance to the mass market more cost-effective. We make a number of recommendations intended to allow firms to develop more streamlined services and engage with customers in a more effective way. These include a proposal that the FCA should set up a dedicated team to help firms developing mass-market automated advice models to bring these to market more quickly, and that HMT should consult on amending the definition of regulated advice.

2. **Accessibility** – people often lack confidence when faced with decisions about their finances. We propose a number of measures to help consumers engage more effectively with advice. These include making their own information more easily available to them and those that advise them; the development of nudges to encourage customers to seek support at key life stages. The report also recommends measures to help employers to give more support to their staff on financial matters.

3. **Liabilities and consumer redress** – many advisers told us that concerns about future liability are preventing them from giving advice today. We recognise that concern but also the importance of consumer protection in building confidence in the sector. We make recommendations to increase clarity and transparency about the way in which the Financial Ombudsman Service deals with consumer complaints. We also make recommendations in relation to the funding of the FSCS to assist advisers struggling to predict and budget for the levy they have to pay.

It is our view that, taken together, the package of measures we have set out has the potential to promote a real improvement in the affordability and accessibility of advice and guidance to people at all stages of their lives. It is clear to us that continued focus is required to ensure that these measures are effective and we are therefore also recommending the FCA and HMT jointly report on progress in 12 months and then review the outcomes of this work in three years' time.

We have been very encouraged by the level of engagement with the Review and the wide agreement that more should be done to ensure consumers have access to appropriate advice and support. For our vision of more affordable and accessible advice and guidance to be realised, there will need to be continued commitment and co-operation not only from regulators and Government but also employers, consumer groups and the financial services industry. This collaboration will be a critical part of the ongoing success of FAMR, and to that end we have asked Nick Prettejohn to chair a Financial Advice Working Group work over the next 12 months, with this group incorporating members from the FAMR Expert Advisory Panel and the FCA statutory panels.

Tracey McDermott
Acting Chief Executive
Financial Conduct Authority

Charles Roxburgh
Director General, Financial Services
HM Treasury

Executive summary

The Financial Advice Market Review (FAMR) was established with the aim of identifying ways to make the UK's financial advice market work better for consumers. The Review had a wide scope, and looked 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.

FAMR did not look solely at advice in a formal regulatory sense. Instead it considered consumer needs and preferences for different types of help with their financial decision-making and the potential barriers to the provision of these services. As such, it considered a number of issues, including the regulatory and legal framework, the economics of providing advice, consumer engagement and the role of technology.

Key terms

This 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'. Further detail on the terminology used in the report is contained in the glossary in Annex A.

This 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.

This summary sets out the Review's conclusions and recommendations designed to achieve this aim, drawing on responses to the Review's Call for Input, extensive engagement with consumer and industry stakeholders and subsequent analysis. Further detail is provided in the body of the report. The FAMR team would like to thank all of those who contributed to these discussions.

Financial advice in the UK

Following the Retail Distribution Review (RDR), the UK has a high-quality financial advice market. Standards and professionalism in 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 move to fee-based advice on retail investment products[1] has improved transparency and ended conflicts of interest caused by a mainly commission-driven model[2]. However, advice is expensive and is not always cost-effective for consumers, particularly those seeking help in relation to smaller amounts of money or with simpler needs.

1 Unless the advice falls under the basic advice regime.

2 Commission has been prohibited in certain markets as a result of detailed analysis to determine whether there is an economic case for such an intervention. This is analysed on a market by market basis and includes looking at evidence for factors such as (but not limited to): whether firms have significant information that consumers lack ("information asymmetry"); the nature of firms, consumers and how they interact; the financial capability of the consumer; the complexity of products; the incentives of firms, and what we know about consumer behaviour in the relevant market.

These changes have highlighted concerns that there is an 'advice gap'. The Economic Secretary to the Treasury and the Board of the FCA shared this concern and so launched FAMR as a joint FCA/HMT Review. FAMR's Call for Input defined the advice gap as situations in which consumers are unable to get advice and guidance on a need they have at a price they are willing to pay. The Review focused on the gap in relation to specific issues, including saving into a pension, taking income in retirement, and investing. The recommendations reflect this focus, but a number of them may also address advice demand and supply issues in other areas such as life cover or protection.

A number of 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. In a 2016 survey, conducted on behalf of the Association of Professional Financial Advisers, 69% of advisers said they had turned away potential clients over the last 12 months. The most common reason for this was affordability, with 43% of advisers turning away clients stating the advice services offered would not have been economic given the circumstances of those clients[3].

Respondents to the Call for Input also indicated that low levels of consumer demand for advice were contributing to the advice gap. The Review has concluded that such low demand is driven by several factors. These include high costs (especially relative to small amounts available to invest), limited confidence in engaging with financial issues, and a lack of trust following past instances of mis-selling.

Affordability

A number of factors combine to mean that not all consumers can currently afford to access the advice they need at a price they are willing or able to pay. The market currently delivers high-quality solutions to those who can afford advice. However, 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. It is clear, though, that 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 instil consumers with the confidence to make their own decisions.

One of the principal areas identified by firms as a barrier to providing this kind of guidance was uncertainty about the boundary between regulated advice and more general forms of help. Firms have also stated that they do not feel able to develop more streamlined advice services that meet simple consumer needs. As a result, many consumers who are seeking support through guidance or limited forms of advice are either unable to access support or end up paying the cost of full advice, even when their needs are comparatively simple. FAMR therefore recommends making the regulatory landscape clearer for firms so that they can deliver high-quality guidance services for consumers who want help in making their own decisions.

Additionally, the costs of supplying face-to-face advice are significant, meaning most firms are unable to provide advice at a price many consumers would consider reasonable. As a result, many consumers who want to receive this kind of support are left without it unless they are able and willing to pay for advice. FAMR believes that new technologies can play a major role in driving down the costs of supplying advice and enabling firms to engage with consumers more effectively.

3 APFA has taken these figures from NMG Consulting's Financial Adviser census, conducted between 11th and 26th January 2016.

FAMR notes that there have already been a number of market developments in this space. FAMR therefore recommends building on this momentum by developing a clear framework to give firms the confidence to deliver streamlined advice on simple consumer needs in a proportionate way. FAMR also recommends taking steps to ensure new technologies can be exploited to drive down the costs of supplying advice, making it affordable for more consumers.

Accessibility

Analysis and responses to the Call for Input also suggested that a lack of consumer engagement and demand were important factors holding back the development and growth of the advice market. Respondents 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.

One factor identified as holding back demand was cost. A number of respondents stated that many consumers with lower incomes or investible amounts are unable to pay for advice. Part of this is attributable 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 some evidence that many of those with less wealth would be willing to pay some amount for advice, but are put off by its current price. A number of responses to the Call for Input also suggested there is a segment of the population that is unwilling to pay for advice. This could be could be linked to limited consumer understanding of the benefits of advice, and a feeling among some consumers that advice is “not for them”. Other respondents suggested that consumers do not feel confident engaging with advice.

A further contributing factor was a lack of trust in advisers, due in part to historic examples of mis-selling of products such as personal pensions and structured products. Although the RDR made significant progress in professionalising the advice industry, trust remains relatively low and it seems likely that it will take longer for awareness of the changes introduced by the RDR to lead to higher levels of confidence in the industry.

In addition to addressing the barriers to the supply of advice, it is important that FAMR should tackle the barriers which prevent consumers from seeking out advice and other forms of support. Many people are unsure how to go about finding good financial advice, or are not engaged with financial planning altogether.

The workplace presents an opportunity to help more people access financial guidance and increase take-up of financial advice. However, some employers are wary of offering help with financial matters to their employees due to regulatory liability concerns. There are also limited incentives for employers to support their employees in this way. FAMR’s recommendations therefore seek first, to clarify the help that employers can provide without being subject to regulation and second, to improve incentives to employers to support their employees’ financial health where appropriate. FAMR also makes recommendations which seek to help consumers who feel unable to access advice because of high upfront charges by providing greater flexibility in how long they have to pay for advice.

In some areas, particularly pensions, where people can build up several pots in different places over their working lives, it can be difficult for consumers to access data on their own savings to support planning. This can lead to a lack of consumer engagement. FAMR therefore recommends a package of measures to encourage consumer uptake and awareness of advice. This includes recommending that HMT champions and plays a convening role in industry’s development of a 'pensions dashboard' and explores 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.

Liabilities and consumer access to redress

It is crucial that consumers receiving financial advice have confidence in the regulatory system and have access to redress if they are wrongly advised. 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.

FAMR has sought to develop a better understanding of the role of firms' liabilities for redress in the context of the advice gap. The recommendations of FAMR seek 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 the need to ensure that where consumers do suffer as a result of poor advice, they are able to access the appropriately high levels of consumer protection currently available.

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.

A number of respondents expressed concern about the role of the Financial Ombudsman Service. These largely fell into two categories. The first was the lack of a longstop after which consumers cannot complain about financial advice. Some respondents suggested that this indefinite liability has an impact on the ability to obtain investment into advisory businesses or to sell them and argued that a standard longstop should be introduced. The second concern was that the Financial Ombudsman Service might apply the standards of today when judging complaints made some years ago, rather than the standards applicable at the time. In response to the first issue, FAMR has considered the case for a blanket fifteen year limit of liability for financial advice. It has concluded that this would not be in the interest of consumers, especially given the risks that arise with long-term products.

FAMR is supportive of the role of the Financial Ombudsman Service in resolving disputes between consumers and firms. FAMR believes the Financial Ombudsman Service has a valuable role in its outreach work with firms, publicising its resources and guidance, and the data it collects. However, more can be done to allay firms' concerns. FAMR has worked with the Financial Ombudsman Service to develop a number of recommendations aimed at increasing transparency and promoting best practice in order to reduce uncertainty for firms, while preserving high standards of consumer protection and ensuring full redress where appropriate.

The Review's policy recommendations

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.

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).

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

Recommendation 13:

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

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.

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.

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.

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.

Recommendation 18:

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

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

1. Introduction

The UK's financial advice market can be made to work better in order to deliver high-quality, affordable advice and guidance for all consumers. Over the past few years, there have been major improvements to the quality of financial advice, driven by the Retail Distribution Review (RDR) and other regulatory initiatives. These have raised standards of professionalism and enhanced consumer protection. However, at present, this high standard of advice is primarily accessible and affordable only for the more affluent in society.

Providing high quality, professional financial advice is costly. It can therefore be expensive for consumers, particularly compared to the amount most people have to invest or save. Simultaneously other, more limited forms of advice and guidance, for those who want some help to make their own decisions, are not as widely available as they should be. This means that many people cannot access the advice and guidance they want or need to help them make decisions about their finances. This was a consistent theme raised over the course of the Review. Respondents also reported that many people are put off seeking advice by complexity and a lack of trust.

Additionally, the distinction between regulated advice, delivered by a qualified adviser, and guidance, where consumers are supported in making their own financial decisions, is not always clear to consumers. This lack of clarity also causes concern for firms. Many respondents to the Call for Input highlighted wariness on the part of firms, who feel unable to give consumers tailored information to support their decision-making, for fear of straying into the provision of advice without having undertaken all the steps necessary to do so in accordance with regulatory requirements.

Meanwhile, consumers face increasingly complex financial choices. Labour market changes mean that most individuals will move jobs several times over the course of their life. Housing market trends mean that people have been finding it harder to save enough to buy their first home. The long-term shift from employer provision of defined benefit pensions (where the amount received in retirement is usually based on a member's length of service and their final or average salary) to defined contribution pensions (where the amount of money saved plus investment returns determines the size of the pot at retirement) has placed more responsibility onto individuals to make adequate provision for their retirement. The Government's reforms to private pensions have also given people more access to their retirement savings, potentially leading to a greater need for advice than before.

There are currently three Government-backed financial guidance providers which all aim to help individuals navigate financial decision-making (see box 1 below).

Box 1 – Publicly funded guidance

The Money Advice Service (MAS), established in 2010, has a statutory function to enhance "the understanding and knowledge of members of public of financial matters" and to assist the public with debt management.

MAS contracts delivery partners to offer multi-channel guidance appointments, provides web content and financial self-assessment tools, and works through partners on specific projects. In relation to retirement, MAS also provides a series of tools and online guides for consumers on making choices about their retirement and managing their money through retirement.

Pension Wise, launched in 2015 alongside the introduction of pensions flexibility, offers pensions guidance to consumers aged 50 and over to help them make decisions about what to do with their defined contribution pension savings. Guidance appointments are delivered by The Pensions Advisory Service (TPAS) (for phone-based sessions) and Citizens Advice (for face-to-face sessions). A website provides more general information on how to use your pension.

Besides providing the phone-based guidance service for Pension Wise, TPAS also provides two core services: a pensions dispute mediation service, staffed by employees plus trained volunteers with extensive experience in the industry; and a helpline offering telephone, web chat and online channels that provide information and guidance on pensions.

Alongside FAMR, the Government launched a consultation on public financial guidance. This considered:

- How much demand is there for the public provision of debt, pensions and general money guidance.
- How the provision of public financial guidance should be structured and funded.
- How the government can make the provision of public financial guidance more effective for consumers.

The Response to the Public Review of Public Financial Guidance will be published shortly.

The landscape for individuals is complex. Getting their financial choices right is essential for individuals to achieve economic security over the course of their life.

The Economic Secretary to the Treasury and the Board of the FCA therefore jointly commissioned the Financial Advice Market Review to develop a new approach to financial advice and guidance in order to ensure that there are a range of options available that work for consumers.

This report sets out 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.

Background to the Financial Advice Market Review

The Financial Advice Market Review committed to undertaking a comprehensive review of the UK's financial advice landscape.

On 12 October 2015 HMT and the FCA published a Call for Input which invited interested parties to comment, over a 12-week period, on a variety of issues with the potential to affect the supply and demand of financial advice in the UK market.

The Call for Input welcomed views on 41 questions. These covered a wide range of issues, including the supply of and demand for financial advice, the nature of advice gaps in the UK market, consumer redress for bad advice and firm liability to pay redress, and technological innovation in the field of advice.

The Review received 268 responses from a range of stakeholders, including advisers, consumer groups, banks, insurers and individuals. The responses have been published alongside this report and are available on the FCA website.

During the consultation period, the FAMR Secretariat also engaged extensively with a wide range of stakeholders and held a number of regional roundtables and workshops with experts from across the industry and from consumer groups. These included roundtables in Edinburgh, Bristol and Manchester. Over 50 firms were represented at these regional roundtables, including 36 financial advisers. There were also a number of London-based roundtables focused on specific issues, including: consumer demand, retirement income, regulatory clarity, workplace advice, the economics of supplying advice, and innovation in the financial advice market. There was diverse participation at these roundtables from consumer and industry groups and from large and small firms.

As part of the review, FAMR was also able to provide input into an FCA survey of advisers which examined the supply of regulated advice for investments, pensions and retirement income. The survey was conducted between November and December 2015 and involved 233 firms, including 129 firms with two or fewer advisers, as well as some of the largest providers of financial advice. This research, which also covered advice on retirement income for FCA supervision, will be published in April 2016. Initial results are presented in this report where relevant[4].

An Expert Advisory Panel, comprised of senior figures representing consumers, financial advisers and financial services providers[5], was established and fed into the work of the Review by:

- providing background guidance to the Review team on the financial advice market and the way it is shaped by current business practices, consumer needs and regulation; and

- responding to the Call for Input, providing challenge and acting as a sounding board on specific themes relevant to the Review and the final recommendations.

The FCA's Consumer, Practitioner, and Smaller Business Practitioner Panels also provided valuable support and input to the Review.

Several members of the Expert Advisory Panel will, in conjunction with members of the FCA's statutory Panels, continue to provide ongoing support to those parts of the final recommendations that require stakeholder engagement.

HMT and the FCA will continue to work to work with interested parties to ensure that FAMR's recommendations are implemented effectively.

This report sets out the Review's key findings, outcomes and recommendations for further work.

4 This is referred to in this report as the FCA survey of advisers.

5 The membership of the Expert Advisory Panel is set out at Annex B.

FAMR has welcomed the valuable input from the Expert Advisory Panel and the range of expertise that it has provided. In particular, the Panel benefitted from having the combined expertise of consumer and industry representatives working jointly to identify solutions to a shared problem. FAMR considers there is an on-going role for a forum such as this to assist with the implementation of FAMR recommendations.

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.

2.
A new approach to financial advice

The advice landscape

The RDR has led to a high standard of financial advice in the UK. It increased the minimum qualifications needed to give advice, and so significantly improved the quality of that advice. It also banned commission for advised investment sales, thereby eliminating unacceptable conflicts of interest that could lead to consumer detriment and increasing transparency around firms' remuneration. The majority of those who commented on the matter in response to the Call for Input felt that the RDR had been successful in increasing professionalism in the advice industry.

However, respondents also highlighted that a number of issues with the UK's financial advice market remain following the RDR. Some suggested that, despite the benefits of removing 'commission bias', the move from paying for advice via commission to paying adviser fees has contributed to many people not being able get the advice they want and need at a price they are willing to pay. Others identified a number of issues in relation to consumer demand for financial advice. This chapter explores both the supply and demand aspects of the UK financial advice market, and sets out the case for change. It also highlights the considerable strengths of the existing advice market which need to be preserved.

2.1 Supply

Historically, the majority of investment distribution in the UK was through a mixture of smaller advisory firms and the advisory arms of larger institutions such as banks, building societies and insurers. Advice was either 'independent' where firms gave advice based upon an assessment of the whole of the relevant market (and offered the option to the client of paying by fee) or advice was provided on products from a single or limited range of providers. Typically advisers were paid for their services via commission from the providers of the products they recommended[6]. This meant that customers did not have to pay an upfront charge for the advice, as providers recovered the cost of commission through on-going product charges paid by the consumer. This structure gave rise to a serious conflict between the interests of the adviser and those of their customers, contributing to the conditions that led to a series of mis-selling episodes. For consumers, it was not transparent whether they were receiving impartial advice or simply being sold the product which paid the highest commission to the adviser. Many were unaware of the cost of advice and many wrongly believed they were getting their advice for free.

The Retail Distribution Review

The RDR was launched by the Financial Services Authority (FSA) in 2006 to investigate how investment products were distributed to retail consumers in the UK. It aimed to change fundamentally the way investment products were distributed to retail consumers in the UK, in order to establish an effective retail investment market that consumers had confidence in and trusted.

6 There were also fee-based advisers before the RDR, who would rebate the commission to the consumer, however this was not the typical model.

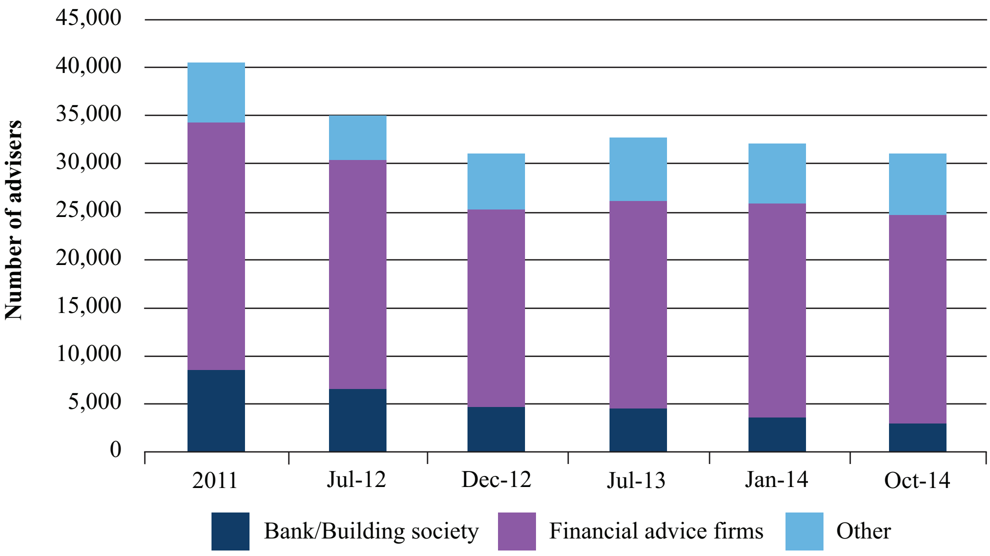
It identified a number of long-running problems affecting the quality of advice and consumer outcomes, as well as confidence and trust, in the UK investment market. In 2012 the FSA implemented provisions to improve the clarity with which advisory firms described their services to consumers; address the potential for adviser remuneration to distort consumer outcomes; and improve the professional standards of advisers. In April 2014, the FCA implemented similar provisions on remuneration and transparency for platforms.

Following RDR, firms providing advice on retail investment products need to explain whether their services are “independent” or “restricted”. Independent advice should be free of any bias or restriction. Where firms restrict the scope of their advice to certain products or providers, they must disclose and explain the nature of the restriction. Firms also need to provide customers with clear information on the charges for their advice.

Decline in adviser numbers

Adviser numbers have declined over recent years, for a range of reasons. This includes the introduction of the RDR which the FSA expected would prompt some advisers to leave the industry. Chart 1 below shows the decline in the number of financial advisers over recent years.

Chart 1 Decline in adviser numbers 2011-14



Sources: RS Consulting (2011) and FCA (2012 onwards)

The majority of advisers exiting the market during this period were those employed by the banks and building societies. There are a number of reasons for these exits, including declining profitability of branch-based distribution models, a lesser role for branch-based activity, anticipation of the RDR[7] and the consequences of episodes of mass mis-selling (in terms of redress and reputational damage).

Banks, insurers and other large firms have, however, traditionally been more likely to serve mass market customers with lower levels of wealth. For example, the FCA’s recent survey of advisers found that 27% of customers advised by medium or large advisory firms (those with ten+ advisers) on retirement income had pension wealth of less than £30,000, compared to only 19% of customers advised by very small firms (those with only one of two advisers)[8]. This is likely to be because firms with high numbers of advisers are able to benefit from economies of scale,

7 FCA, *Post-implementation review of the Retail Distribution Review – Phase 1*, December 2014.

8 Forthcoming FCA survey on the provision of financial advice which included questions relating to FAMR. This surveyed 233 firms and is due to be published April 2016.

which make it possible to serve consumers with lower levels of affluence. Larger, more diversified financial services firms also benefit from having an existing customer base across which they can cross-sell their advisory services. It is, however, also particularly important for those firms, given the wide reach and significant consequences of flaws in their sales practices, to have clarity about the nature and scope of the advice they are giving to their customers and the potential liabilities as a result.

Cost of providing advice

A number of respondents stated that firms focused their efforts on clients with a certain amount to invest or pension pot size[9]. This is supported by some quantitative evidence – a survey of advice firms suggested that, over the last two years, the proportion of firms who ask for a minimum portfolio of more than £100,000 has more than doubled, from around 13% in 2013 to 32% in 2015[10]. The FCA's recent survey of advisers also supports this, suggesting that 45% of firms very rarely advise customers on retirement income options, if those customers have small funds (i.e. less than £30,000) to invest[11].

There are various of reasons for this. A consistent theme emerging from the Call for Input was that there are significant minimum costs per customer associated with supplying face-to-face advice. This means that it may be less cost-effective for individuals with small pot sizes to obtain advice. This will inevitably affect commercial decisions about whether to offer services to consumers with lower amounts to invest. It will also inevitably affect whether the consumer feels that the service they receive represents good value for money. The costs of providing advice include:

- expenditure on marketing to attract customers;
- direct costs, such as staff training;
- the cost of technology;
- insurance costs;
- the direct costs of providing advice in line with regulation (e.g. costs relating to gathering information during the fact find process or assessing the suitability of the recommendation); and
- regulatory fees and levies.

There are other considerations. When assessing the viability of an advice-based business model it is also necessary for providers to consider the potential indirect costs in the event of errors. Advice also has constraints in terms of scalability, in that there is a limit to the number of clients each adviser can service.

The Association of Professional Financial Advisers has published survey results on the cost of regulation. Its November 2015 report[12] found that small and mid-sized firms are spending, on average, 12% of their income on direct and indirect regulatory costs. Of this, a quarter is spent on

9 This statistic does not refer to an individual's total pension wealth.

10 Blue & Green Tomorrow, Voice of the Adviser Survey, 2016.

11 The picture is more positive in relation to investments and pensions accumulation. Nearly one in five firms rarely advise customers on investments (18%) or pension accumulation (19%) if customers have less than £30,000 to invest. Customers' circumstances (e.g. overall financial assets) and future relationship potential are important considerations for advice firms when accepting customers. Forthcoming FCA survey on the provision of financial advice which included questions relating to FAMR. This surveyed 233 firms and is due to be published April 2016.

12 Association of Professional Financial Advisers: *The Cost of Regulation Report*, 2015. However, attributing firm costs to regulatory requirements can raise difficult methodological issues about how far costs stem solely from regulation and how far they are a normal cost of doing business.

direct fees and levies, including those for the FCA, the Financial Ombudsman Service, FSCS, and MAS.

Respondents suggested that, due to the high costs associated with face-to-face advice, it is unprofitable to serve customers who have assets below a certain level, and so firms will focus on customers with assets above that level.

Basic and simplified advice

In the past, there have been attempts to design a system which allows firms to deliver cheaper forms of advice. Basic advice, introduced in April 2005, allowed the sale of simplified, low-risk investment "Stakeholder" products such as Stakeholder cash ISAs and Stakeholder pensions, through a pre-scripted process. Product charges were capped at a certain level and the adviser was not required to hold formal qualifications.

The current advice regime also allows firms to focus on one or more specific needs through the provision of "simplified advice". It does not require an analysis of the consumer's circumstances that are not relevant to those needs.

Neither has, however, gained traction in the mass market. As a result neither has been successful in creating a way for consumers to get advice on simpler needs without paying for full advice, which looks at all aspects of an individual's needs and financial affairs. The Review has identified a number of reasons for this. These include concerns on the part of firms that complaints about advice given under the "basic" or "simplified" regimes may ultimately be judged by the FCA and the Financial Ombudsman Service against the standard for "full" advice. Firms have also reported a lack of demand for these services. In the case of basic advice, there was also a concern that the level of the charge caps combined with the cost of giving face-to-face advice made it uneconomic for firms to deliver this service.

Recent developments

Some larger firms have recently signalled a return to the advice market. In some cases this is being facilitated by effective and creative use of new technologies. A number of firms currently in the advice market are also planning to increase the number of customers they serve. The FCA's recent survey of advisers found that around 30% of firms surveyed expect to grow the number of advisers over the next year[13].

2.2 Demand

In addition to the supply-side issues described above, a significant number of respondents to the Call for Input identified low consumer demand as an important factor holding back the development and growth of the advice market.

There are a number of explanations for low levels of consumer demand, including cost, the growth of direct-to-consumer and self-service models, and a lack of consumer engagement and understanding.

Cost to consumers

Those with greater wealth are more likely to take advice. According to NMG Consulting, 62% of people would take advice on investing a sum worth £50,000 but only 27% of people would take advice on a sum worth £10,000[14]. This is to be expected – not only are there potential affordability

13 Forthcoming FCA survey on the provision of financial advice which included questions relating to FAMR. This surveyed 233 firms and is due to be published April 2016.

14 NMG Consulting, *Impact of the Retail Distribution Review on consumer interaction with the retail investment market*, 2014.

challenges for those with lower levels of wealth but the cost of advice proportionate to the amount to invest may mean that it is not worthwhile. Additionally, those with significant wealth are more likely to require advice on more complex products and arrangements.

However, there are many people who would be willing to pay something for advice but who are put off by higher prices. HSBC research found that across all of their customers, between 30% to 50% of consumers wanted advice but were deterred by price. Citizens Advice Bureau[15] found that only 8% of consumers would be willing to pay over £500 for advice on making an investment, whereas 14% would be willing to pay £200 to £500. Which? found that people without significant wealth would be willing to pay on average £258 for advice on investing an inheritance of £60,000.[16] Responses to the Call for Input supported this, with a number of respondents noting both the perception and the reality of clients being unable or unwilling to pay their fees.

As noted above, it is currently difficult for the traditional model of advice to serve consumers economically at lower fee levels. On average, financial advice costs £150 per hour[17] and typically giving advice on a pension requires an average of nine hours on the part of the adviser[18].

Self-directed sales and the role of guidance

Low demand can partly be attributed to the growing trend towards consumers making and executing their own financial decisions. The Call for Input noted that in recent years, there has been a move away from the provision of professional advice, towards consumers making decisions based on guidance or with no support at all[19]. The FCA's RDR Post-Implementation Review found that, since the beginning of 2013, platform sales have accounted for more product sales than any other intermediary channel, as demonstrated by Chart 2. Part of this shift can be explained by improved and more readily available direct-to-consumer models in which firms develop and sell their own funds or products.

15 Citizens Advice, *The Four Advice Gaps*, 2015.

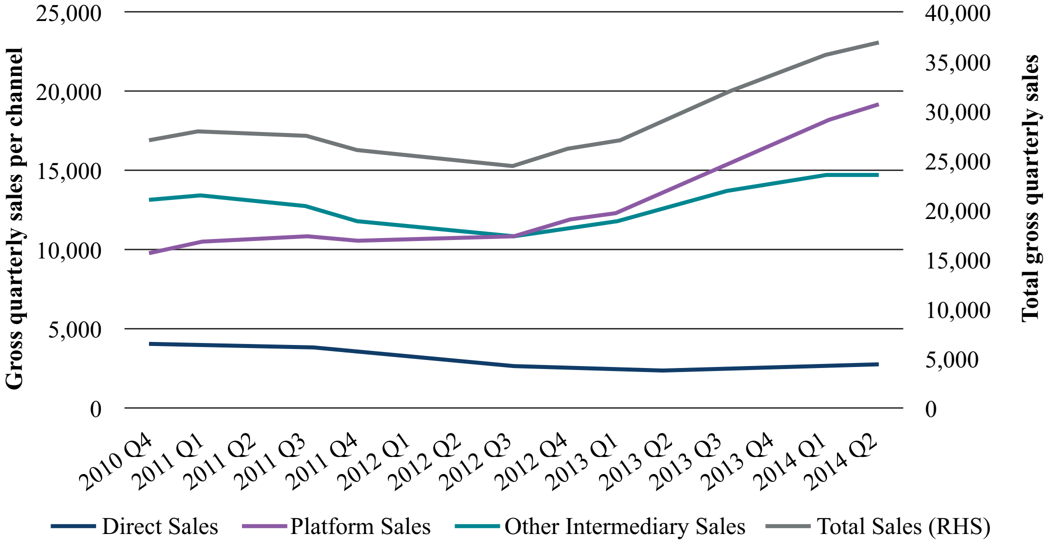
16 Populus on behalf of Which?, interviewed 1000 UK adults online who reported they had between £10 and £50k available to invest, between 27th and 29th November 2015. Data were weighted to be demographically representative of the UK population.

17 Unbiased.co.uk research carried out in July 2015 (230 advisers). Unbiased.co.uk, *Cost of Advice guide 2015*, September 2015.

18 Charles River Associates '*Cost of Providing Financial Advice: Identifying and quantifying the cost of the key components of a full advice service*' (2010), ABI Research Paper No. 22, http://www.betterregulation.com/external/ABI%20Research%20Paper%20No.%2022.pdf

19 NMG Consulting's data referred to in the RDR PIR 2014 found that non advised sales had "increased by an average of 7% year-on-year from 2010 to 2013 in 2011/12 to around two-thirds in 2014/15".

Chart 2 Distribution Channels 2010-14[20]



Note: Sales data are four-quarter moving average.
Source: IMA Fund Statistics. Data includes retail sales in equity, fixed income, money market, mixed asset, property and other assets.

However, responses to the Call for Input also identified situations in which people may not have been able to receive the support they wanted – for example, consumers who have made self-directed purchases, even though they were not entirely confident in their ability to make the right decision. NMG Consulting research provides further support for this. It shows that 50% of advised customers said they were very confident immediately after purchasing an investment, whereas only 35% of non-advised customers said they were confident immediately after purchase[21].

Mintel found that almost half (47%) of consumers had not received any form of financial advice within the last three years. Yet only 27% of consumers agreed with the statement "I am capable of sorting out my own finances without financial advice"[22]. Research by unbiased.co.uk found that over a third (34%) of those who have purchased or arranged a financial product themselves have later regretted the decision[23].

Clearly, guidance which enables consumers to make their own decisions confidently is an increasingly important part of the landscape. Both the Government and industry have roles to play in ensuring that appropriate guidance and information is available to consumers when they need it.

There is some evidence of low awareness and uptake of public guidance services. For example, Citizens Advice found fewer than half (45%) were aware of Government free guidance services and 47% said they had not known where to look for advice[24].

Financial services firms have stated that they are nervous about giving helpful support and guidance due to the complexity of regulatory requirements, and potential implications of providing regulated advice. A firm may be liable to a customer for any loss caused if, in seeking

20 The data in the figure do not distinguish between advised and non-advised sales — platform data are collected from both D2C and B2B platforms, and although direct sales are more likely to be unadvised and intermediary sales advised, the distinction is not certain. See: *Europe Economics, Retail Distribution Review Post Implementation review.*

21 NMG Consulting, *Impact of the RDR on consumer interactions with the retail investments market*, September 2014.

22 Mintel: *Consumers and financial advice UK*, May 2015. This also includes those with no money to invest; and this statement does not refer simply to investment advice, it covers all financial advice, including mortgages.

23 https://www.unbiased.co.uk/value-of-advice/report-stats.

24 Citizens' Advice, *The Four Advice Gaps*, 2015.

to give a consumer guidance, it was subsequently found to have been giving regulated advice without meeting relevant regulatory requirements (for example, if a firm gave an implicit personal recommendation without completing a fact find to ensure the advice was suitable for the customer's personal circumstances). Many firms told FAMR that they currently stop short of providing customers with the guidance they want because of concerns about straying inadvertently into activities that constitute regulated advice.

Engagement and trust

There is also evidence that a lack of consumer engagement is contributing to low demand. Many consumers do not feel confident or competent in seeking out and acting on financial advice. For example, a Mintel report found 44% of consumers say they lack an understanding of how financial services firms can help them manage their financial affairs[25]. The UK's Financial Capability Strategy noted that confidence and capability in relation to financial matters varies – one in five people cannot read a bank statement, and one third of people cannot perform a relatively simple calculation to add interest earned to a savings balance[26]. People's lack of confidence in making proactive decisions about their finances was also noted by many respondents to the Call for Input.

NMG research[27] shows that some people question the value for money provided by regulated advice, and believe advice is expensive despite not knowing the cost of advice. A Mintel report additionally suggests that over a third of people do not feel the advice industry caters for "people like them", and almost half (44%) say they are confused as to how financial services firms can help them manage their financial affairs[28].

Trust may also be a significant factor, following the past mis-selling of products such as personal pensions, structured products, payment protection insurance and endowment mortgages. Although the RDR made significant progress in professionalising the advice industry, and levels of trust are high amongst those who already receive advice[29], there is evidence that trust in advisers remains low among the general population. For example, Mintel[30] found that less than half of consumers trust financial advisers to act in their interests. A 2014 PwC study[31] found that fewer than a third of people (28%) trusted financial advisers.

There is also evidence of relatively low consumer awareness of the changes introduced by the RDR[32]. This lack of awareness of new requirements and higher standards may help to explain the continuing lack of trust in advisers. For example, a survey conducted for the FCA reveals that the proportion of respondents who disagreed either slightly or strongly that financial advisers make recommendations based on the best interests of their clients has remained broadly stable, at 34% in 2010 compared to 36% in 2014[33] (see Chart 3 below).

25 Mintel: *Consumers and financial advice UK*, May 2015.

26 UK Financial Capability Strategy, October 2015.

27 NMG found some cynicism about regulated advice among those with less than £20,000 to invest, as they felt the benefits do not justify the cost, feared adviser bias, and felt they could do just as well without the help of an adviser. NMG Consulting, *The motivation, needs and drivers of non-advised investors*, July 2014.

28 Mintel 2015: *Consumers and financial advice UK*, May 2015.

29 FCA, *Post-implementation review of the Retail Distribution Review – Phase 1*, December 2014.

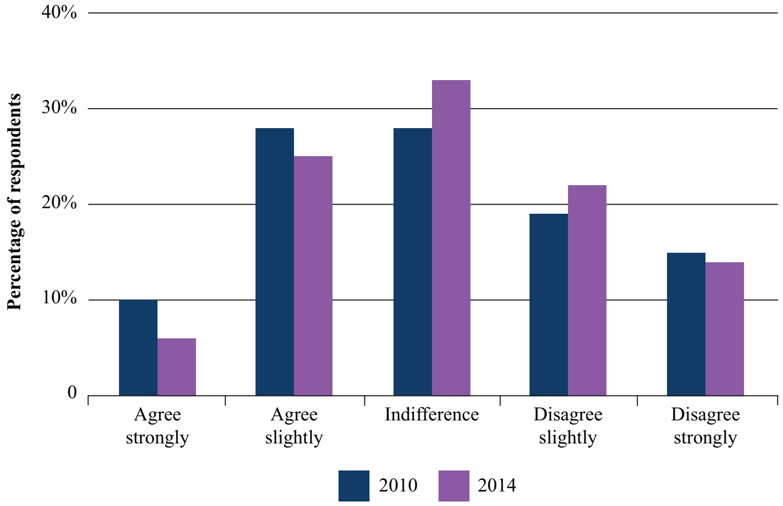
30 Mintel, *Consumers and financial advice* – UK, May 2015.

31 Compared to 32% who trusted retail banks and 15% who trusted investment banks. PWC, *Stand out for the right reasons: How financial services lost its mojo – and how it can get it back*, 2014. http://pwc.blogs.com/files/how-financial-services-lost-its-mojo---and-how-it-can-get-it-back_full-report.pdf.

32 The survey shows only 29% of customers not currently receiving advice are aware of professionalism changes. The Personal Finance Survey, The RDR and Consumers, February 2014.

33 Europe Economics, Retail Distribution Review Post-Implementation Review, 16 December 2014: https://www.fca.org.uk/static/documents/research/rdr-post-implementation-review-europe-economics.pdf.

Chart 3 Perceptions of whether financial advisers make recommendations in the client's best interests, 2010 and 2014



Source: Europe Economics survey.

Research conducted for the Financial Services Compensations Scheme (FSCS) has also found that trust amongst consumers that they will be compensated for losses they incur as a result of poor financial advice is considerably lower (45%) than trust that the money in their accounts is safe and secure (62%)[34].

2.3 Gaps in the current market for financial advice

There was a range of views in response to the Call for Input question on the nature of advice gaps.

The vast majority of respondents believed that one or more advice gaps exist, most believing that a gap exists for people on lower incomes or with lower levels of assets who cannot afford to pay the fee for advice or find it harder to access. A number of reasons were cited for this gap, including supply-side issues ("not enough advisers to go round" or "too many advisers looking for wealthy clients to the detriment of the majority") and consumer engagement issues.

Respondents defined the gap in different ways. Some felt that the advice gap was solely comprised of people who wanted advice but could not get it at a price they were willing or able to pay. Some of these felt that cost was not the only off-putting factor, and that "an advice gap" should be defined as the difference between the number of people who currently seek advice, and those who would seek advice if a cheaper and less intensive process existed. Others used a broader definition, highlighting that individuals might not necessarily be aware of the fact that they need advice.

When asked for views on where the advice gaps were, a large number of respondents focused their answers on saving into a pension, taking an income in retirement, and savings and investments. A smaller number of respondents also suggested there was an advice gap in relation to taking out life insurance and protection cover.

34 FSCS 2015, *Mind the Gap: Restoring Trust in UK Financial Services,* November 2015.

Both industry and consumer groups also felt that many people, even those who did not necessarily want or need regulated advice, would benefit from more support and guidance in financial decision-making.

Respondents to the Call for Input, from both industry and consumer groups, felt that consumers without significant wealth currently find it more difficult to access advice or support to meet their needs. Some respondents put forward qualitative evidence for these gaps, including:

- The types of clients that their firm takes on board.
- Prospective clients needing retirement advice but saying they cannot afford fees.
- Examples of people being turned down because of high fees or unwillingness to pay.
- Examples from their own experience to suggest that people don't understand when they need advice.

Further evidence and analysis highlights specific areas in which consumers may want and need advice but where they may not currently be able to access it. Around half of consumers think pensions are difficult to understand[35]. The Pensions Policy Institute ranked the decision about how to access defined contribution pensions as one of the most complex people are likely to encounter, because of the required knowledge about the economy and market risks, as well as the impact of unknown factors[36]. Despite this, less than a third of consumers have obtained financial advice[37].

This gap between the needs of consumers and the advice they seek also extends to other forms of savings. Over a fifth of people over the age of 50 (21%) said they did not understand cash ISAs well or did not understand them at all. The percentage nearly doubled (41%) when people over the age of 50 were asked the same question about stocks and shares ISAs[38]. A large number of respondents to the Call for Input agreed that there is a need for financial advice on savings and investments[39].

Similarly, research by Aegon found that only 16% of people would be confident making an investment in the stock market or in an equity fund without financial advice, and only 14% would be confident planning retirement goals or knowing where to invest to meet these goals without financial advice[40].

The FCA's recent survey of advisers[41] found that, while many advisers were happy to give advice on relatively small pension pots, their decision on whether or not to take someone as a client was heavily influenced by the other assets that person has. This suggests that people with lower overall levels of assets may find it difficult to get advice.

35 Unpublished FCA Consumer Insight Survey, conducted by GfK. On-line survey of consumers in 2014/15. 2000 consumers were asked: How much do you agree or disagree with each of these statements… 'I think pensions are difficult to understand'.

36 Pensions Policy Institute, How complex are the decisions that pension savers need to make at retirement, November 2014.

37 Yougov 2013. *Impact of RDR: Wave Two* February 2013, it does not capture the effects of the pensions freedoms introduced in April 2014. However, 2015 Saga research suggests that only 12% of over 50s currently use a financial adviser to help them understand and manage their finances. Saga, *Savings and the Over-50s*, 2015.

38 Saga, *Savings and the Over-50s*, 2015.

39 This is supported by Mintel research showing that 30% of people think they might need advice on savings and investments in the future: Mintel, *Consumers and Financial Advice*, UK, 2015.

40 Aegon, *The Advice Premium, 2015.*

41 Forthcoming FCA survey on the provision of financial advice which included questions relating to FAMR. This surveyed 233 firms and is due to be published April 2016.

42 Where the advice includes a pension transfer, conversion or opt-out, there may be additional requirements. The full factsheet can be found on the FCA website: https://www.fca.org.uk/static/documents/factsheets/fs035-pension-reforms-insistent-clients.pdf

43 www.fca.org.uk/news/cp15-30-pension-reforms.

Box 2 – Insistent clients

A number of respondents raised the problem of insistent clients. This refers to clients who seek advice but wish to take a different course of action from the one recommended to them, and who want an advisor to facilitate the transaction against the advice. The FCA has already published information on its website bringing together the process it consider advisers should be following when dealing with insistent clients. This included three clear steps that an adviser should take when advising an insistent client[42]:

1. You must provide advice that is suitable for the individual client, and this advice must be clear to the client. This is the normal advice process.

2. It should be clear to the client that their actions are against your advice.

3. You should be clear with the client what the risks of the alternative course of action are.

The FCA has also recently asked for views on this issue (in CP15/30)[43]. The FCA asked whether regulation could be amended in a way which facilitates such transactions more easily but still provides a satisfactory level of consumer protection. The FCA intends to set out its next steps on this issue in a Policy Statement shortly. Given this, FAMR did not see the case for further action at this stage.

2.4 Conclusions

The UK already has a high-quality financial advice market, with much to recommend it. The RDR reduced commission bias in the market, ensuring that consumers can have confidence in the impartiality of their advisers, increased transparency regarding charging structures, and increased professionalism in the industry. Furthermore, the market is innovative, as evidenced by the recent development of new models of advice. FAMR wants to preserve and build on these aspects of financial advice in the UK.

However, the advice market can be made to work better. It is important to expand access to high quality guidance services. Responses to the Call for Input indicated strongly that there is an advice gap, and that this is particularly significant in relation to pensions and savings and, to a lesser extent, protection. Respondents also agreed that less affluent people are more likely to be affected by the gaps in current provision. However, respondents also gave encouraging messages about the potential for future development in the market, including using technology both to reach currently disengaged consumers and to bring down the cost of advice through innovation.

As set out in the Call for Input, FAMR focuses primarily on advice in relation to investing, saving into a pension and taking an income in retirement. However, a number of the recommendations, particularly those set out in Chapter 4, may also address concerns expressed by respondents in relation to advice gaps around life insurance and protection.

The recommendations set out in this report seek to preserve and build on the strength of the existing system while supporting the development of a market which is affordable and accessible to all.

3. Affordability

Consumers face complex financial choices. Some consumers need guidance in making their own financial decisions. Others would benefit from limited advice on a particular need, such as how to invest their spare income. Others need full advice covering all their financial needs.

Currently, many firms are unclear about the boundary between what constitutes advice and what does not. As a result, they are limiting the amount of guidance they give to consumers, increasing the risk of consumers making poor decisions. The Review recommends making the regulatory landscape clearer for firms so that they can deliver high-quality guidance services for consumers who want help in making their own decisions. Specifically, the Review recommends that:

- **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)[44].**
- **The FCA should consult on new guidance to support firms offering services that help consumers to make their own investment decisions without a personal recommendation. This guidance should include illustrative case studies highlighting the main considerations firms need to take into account when developing such guidance services and dealing with areas of uncertainty identified during the Review.**

At present, a number of firms do not have the confidence to develop advice services to meet simple consumer needs. As a result, many consumers who want to receive this kind of support are either left without it, or are required to pay for full advice. The Review recommends developing a clear framework to give firms the confidence to deliver advice on simple consumer needs in a proportionate way.

- **The FCA should consult on measures to develop a simple and clear framework for delivering advice. These should include:**
  - **New guidance to support firms who wish to offer "streamlined advice" on a limited range of consumer needs. This should include a series of illustrative case studies highlighting the main considerations firms need to take into account when developing such models.**
  - **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 develop a new generation of advisers by allowing employees to work for up to four years under supervision while obtaining appropriate qualifications and experience.**

44 Within this section we have used the term 'definition of advising on investments' as short-hand for the 'scope of the regulated activity of advising on investments' in article 53 of the RAO'.

- **Guidance on the cross-subsidisation rules in relation to the interpretation of "long term" and the flexibility allowed. This will support firms providing advice to consumers with lower levels of wealth.**

The costs of supplying face-to-face advice are significant, meaning many firms are unable to provide advice at a price that consumers are willing to pay. The Review recommends taking steps to ensure new technologies can be exploited to drive down the costs of supplying advice, making it affordable for more consumers:

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

FAMR believes it is vital that the policy and regulatory environment supports firms in providing services that meet the needs of all consumers, not just the more affluent and higher income segments of society.

This means exploring ways in which the cost of providing existing high-quality models of advice can be reduced for firms and therefore for consumers. It means ensuring firms have the confidence to deliver guidance and advice services to meet the diverse needs of consumers. Firms should also be able to innovate and use new technologies to improve and expand their offering to different sets of consumers.

This chapter sets out a number of recommendations to make the market for advice work better and support the development of services that meet the needs of the groups currently excluded.

3.1 Clarity on the advice boundary

There are some consumers whose straightforward needs or lower amounts to invest mean the cost of regulated advice may outweigh the benefits. In addition, some firms may find it uneconomic to provide these consumers with this type of advice.

A major theme highlighted by stakeholders in response to the Call for Input was reluctance on the part of firms to offer other, potentially less expensive, support to consumers in the form of helpful guidance, for fear of straying into the provision of advice. Firms, consumer groups and employers raised concerns about a lack of clarity regarding the point at which more general forms of consumer support become regulated advice, suggesting that this limits their ability to help consumers. In particular, stakeholders highlighted the following two areas of ongoing uncertainty[45]:

- Navigating the boundary between providing helpful guidance based on a customer's circumstance (such as a financial 'health check' prompting customers to think about their financial needs and priorities) and straying into an implicit personal recommendation.

45 These concerns persist in spite of the guidance the FCA published on this subject in January 2015 (*Retail Investment Advice: Clarifying the Boundaries and Exploring the Barriers to Market Development*, FG15/1, http://www.fca.org.uk/static/documents/finalised-guidance/fg15-01.pdf).

- Navigating and managing the risks of the different regulatory requirements that apply depending on whether a firm is providing factual information on particular investments, or moving beyond that into advice on the merits and risks associated with buying or selling particular investments (i.e. non-personalised regulated advice).

This uncertainty means that firms are not providing help to consumers in situations where they would wish to do so. As discussed in Chapter 2, an increasing proportion of consumers are purchasing products directly, without seeking regulated advice from a professional adviser. This is part of a longer-term trend influenced by a number of factors including: low levels of trust following past mis-selling; wider changes in how products are distributed; technological innovation; and concerns regarding the high cost of regulated advice.

In a non-advised scenario, consumers take the responsibility for making their own investment decision, potentially supported by information and guidance from firms and other sources. Firms have suggested that, when considering how best to support consumers in making an informed decision, they are inhibited by aspects of the existing regulatory framework which prevent them from providing helpful support to aid consumer decision-making and supporting better consumer outcomes.

As a result of these concerns, a number of stakeholders have said that they have designed their current guidance services to stop a ‘safe distance’ short of where they perceive the regulated advice boundary to be. Firms also suggest that uncertainty on the position of the boundary causes concern about how the FCA and the Financial Ombudsman Service might interpret their actions in the future, giving rise to the risk of potential long-term redress liabilities as a result of inadvertently straying into the provision of regulated advice without meeting all of the regulatory requirements for doing so.

In choosing to manage this risk by stepping back from the regulated advice boundary, firms are providing less support to consumers than they would like and would ideally be able to. Firms suggest the current situation creates an environment that is frustrating for consumers, who expect and need more support, and for staff who feel unable to help consumers.

There was a broad consensus in the responses to the Call for Input that a clearer boundary between services that constitute regulated advice and those that constitute guidance would allow firms to provide the maximum amount of support possible to consumers making their own investment decisions. This would result in better outcomes for consumers.

A number of stakeholders, including the Expert Advisory Panel, have suggested that this could be achieved by amending the definition of “advising on investments” in the existing Regulated Activities Order (RAO) in line with that of the Markets in Financial Instruments Directive (MiFID)[46]. The definition in article 53 of the RAO is broader and less specific than the definition used in MiFID, which is based upon a firm giving a customer a personal recommendation. Firms have suggested the wider definition of “advising on investments” is open to interpretation and is currently limiting the amount of information and helpful guidance they are willing to give to consumers.

46 MiFID defines advice as ‘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’.

Box 3 – What is the difference between "advising on investments" under the Regulated Activities Order and "investment advice" under MiFID?

The regulated activity of 'advising on investments' under Article 53 of the Regulated Activities Order (RAO) is wider in scope than 'investment advice' under MiFID. This is because MiFID requires advice to be of a personal nature whereas the RAO does not.

For advice to be regulated under Article 53 of the RAO, it must:

- relate to a particular investment[47];
- be given to a person in their capacity as an investor or potential investor (or in their capacity as agent for an investor or potential investor); and
- relate to the merits of them buying, selling, subscribing for or underwriting the investment (or exercising rights to buy, sell, subscribe for or underwrite such an investment.).

MiFID investment advice[48] 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).

For example, an investment bulletin with advice to customers to buy shares in ABC plc or to sell Treasury 10% 2014 stock which is not targeted at individual customers is advice about a specific investment and so could still constitute regulated advice even if it is not a "personal recommendation" because it is not of a personal nature.

The FCA's suitability rules in the Conduct of Business Sourcebook (COBS) only apply to a firm that makes a personal recommendation or manages investments.

If a firm is giving regulated advice that <u>does not</u> involve a personal recommendation, other requirements in the FCA's Handbook such as the Principles for Business and Conduct of Business rules will still apply. These include requirements for the firm to conduct its business with due skill, care and diligence; to pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading; and to act honestly, fairly and professionally in accordance with the best interests of its client[49]. In addition, where a consumer has a complaint about something done (or not done) by the firm in the course of giving the advice, the consumer may be able to refer the complaint to the Financial Ombudsman Service. If the consumer has a valid civil claim against the firm, which the firm is unable (or is likely to be unable) to pay, the consumer may be able to make a claim on the Financial Services Compensation Scheme.

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. The

47 And that investment must be one of a kind to which the activity applies.

48 See Annex 1 section A5 and Article 4.1(4) of the Markets in Financial Instruments Directive (MiFID) (Directive 2004/39/EC) and Article 52 of the MiFID Implementing Directive (Directive 2006/73/EC).

49 See PRIN 2.1.1R and COBS 2.1.1R.

broader definition of regulated advice should therefore be amended to provide greater certainty to allow firms to provide guidance and advice to consumers.

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).

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. For example, firms suggest they would be willing to provide more detailed information in product disclosure documents and on their websites on the types of customer for whom their range of retirement income products are likely to be appropriate or inappropriate, or provide information on the risk profile of the funds available within their stocks and shares ISA[50]. This could benefit consumers who want or need help to make their own decisions, and for whom advice might not be the right solution.

Stakeholders suggest this change will 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.

Under this proposal, regulated firms providing certain services such as generic advice, investment research and general recommendations (currently captured by the definition of advice under the RAO) would continue to need to act in the client's best interests and provide information that is clear, fair and not misleading. However, they would no longer need to have the 'advising on investments' permission from the FCA, unless they also provide personal recommendations.

Firms providing guidance services which support customers making their own investment decisions are not responsible for complying with the suitability rules (unless they also provide a personal recommendation). However, firms must meet their other regulatory obligations, which will depend on the service offered. This means the basis on which a firm providing guidance services without a personal recommendation may be liable to the customer is likely to be different to a firm which has provided a personal recommendation. For example, if the structure and content of a firm's guidance service is unfair, unclear or misleading and this leads to poor outcomes, customers will be able to complain to the firm. Depending on the circumstances, customers may be able to approach the Financial Ombudsman Service and the Financial Services Compensation Scheme.

50 Firms will still need to be mindful that this form of support did not stray into the provision of an implicit personal recommendation.

Making this change is not completely without risk. Moving the regulatory boundary would also enable unauthorised firms to provide services for which they currently require authorisation[51]. Those firms would not be subject to the regulatory requirements referred to above.

Therefore the Review recommends that HMT considers the potential benefits, risks and mitigation strategies associated with this recommendation as part of the consultation exercise on amending the RAO and that the FCA also considers whether it needs any additional powers to address the potential risks from unregulated firms operating in this space.

3.2 Clarity on regulatory responsibilities associated with guidance

Stakeholders 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'. Box 4 below contains selected examples of areas where firms would like further clarity on their ability to use guidance to support customer decision-making.

Box 4 – Examples of areas where firms desire greater clarity

1. 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.

2. 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.

3. Contacting existing customers to highlight that a particular investment has consistently underperformed its benchmark and prompting them to consider whether their investment strategy is appropriate.

4. 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.

5. 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.

51 Examples of the types of activity that could be carried on outside the regulatory perimeter include the provision of generic advice about a type of financial instrument or the provision of a general recommendation about a transaction in a particular financial instrument or a type of financial instrument. Where the activity is regarding a regulated product, there are already some regulatory restrictions in place to try and prevent consumer detriment. These would remain fully in force. These include: rules on inducements that a regulated firm could make to a third party, including to an unregulated firm; restrictions on how far unregulated firms can directly signpost investors on where to purchase a product without being captured by regulation[1]; requirements in the financial promotions regime that an unauthorised firm must not promote engagement in investment activity unless either the content of the communication is approved by an authorised person or it is otherwise exempt under the Financial Promotions Order. Together these restrictions should limit the commercial benefit to unregulated firms providing guidance on regulated products. However, the risk of an unregulated firm providing guidance on unregulated products remains.

Additionally, a number of stakeholders, representing both firms and consumers, have suggested that new FCA guidance is needed to set out the regulatory responsibilities governing how firms design and deliver guidance services. They suggest that the continuing growth of guidance services justifies the production of new guidance to inform firm behaviour. This guidance, alongside the FCA's existing guidance for product providers and distributors[52], would highlight the FCA's view on what the combination of the FCA's Principles for Businesses and relevant detailed rules require of the providers of guidance services in order to treat customers fairly.

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.

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.

3.3 A clear regulatory framework to deliver streamlined advice

Consumers tend to seek advice at specific trigger points in their life or when they have a specific need. This means they often do not want or need full advice involving a comprehensive fact find and assessment across all of their financial circumstances and needs.

The current rules allow firms to narrow the scope of their advisory service to focus on a single consumer need but such limited advisory services have been slow to develop. Firms are uncertain about their ability to narrow the scope of advice and not consider the customer's wider circumstances as part of the suitability assessment. This has resulted in many firms adopting a 'one size fits all' approach to providing advice, whereby they will carry out a full fact find and suitability assessment, even when the scope of the advice is on specific or straight forward needs.

This section considers how to create a more proportionate way for firms to provide advice on simpler consumer needs, without compromising the high quality of existing models of advice.

Flexibility for firms to deliver streamlined advice in a proportionate way

A range of stakeholders, from both industry and consumer groups, have highlighted the desirability of there being a simple and clear way to provide regulated advice for consumers with less wealth or simpler needs.

The existing regime governing the provision of personal recommendations on investments in the UK is based on that in MiFID. Flexibility within the current suitability rules already allows firms to provide a service that focuses on a particular consumer need and carry out a proportionate fact find relevant to assessing that particular need. It allows firms to carry out the type of full,

52 The FCA has set out its view on what the combination of the Principles for Businesses (the Principles) and detailed rules require respectively of providers and distributors in certain circumstances to treat customers fairly. 'Responsibilities of providers and distributors for the fair treatment of customers' (RPPD), http://media.fshandbook.info/Handbook/RPPD_FCA_20130401.pdf. MiFID II will also require firms to meet new product governance standards.

in-depth fact find that would be required if the firm provided regulated advice across all of a consumer's financial needs. It is expected that this flexibility will be preserved in MiFID II. However, many industry stakeholders suggest that previous regulatory interventions aimed at enabling firms to give advice on a particular consumer need (via 'simplified', 'focused' and 'basic' advice) have not provided sufficient regulatory clarity to give firms the confidence to develop such models for the mass market.

Stakeholders suggest this is due to ongoing uncertainty about the breadth of the suitability considerations for advice on a sub-set of someone's needs – i.e. their ability to narrow the scope of their advice to a specific need and not consider that person's wider circumstances. Firms have suggested this uncertainty impacts on their ability to:

- Design an appropriately 'lean' advice process that can cost effectively deliver suitable advice on a consistent basis.
- Innovate to develop advice models (particularly online) that are appealing to consumers.
- Confidently predict how the FCA and the Financial Ombudsman Service will assess suitability in the future.
- Ensure customer expectations of the service they are receiving match what is being delivered.
- Accurately assess the risk of errors and take this into account during the design and oversight of their service.

Collectively, these issues can challenge the commercial viability of prospective new advice models (delaying or preventing new market entrants and innovation) and also lead to an increase in the fees consumers are charged for advice.

The existing suitability rules give firms the ability to narrow the scope of their recommendation from considering all of a customer's needs and objectives ('full advice') to a sub-set of them (via 'simplified' or 'focused' advice). Firms can also give 'basic advice' on stakeholder products[53]. However, these forms of simpler advisory services have been slow to develop. A number of stakeholders have also suggested that the number of terms describing advisory services can be confusing for firms and consumers. Many stakeholders called for a single, simple and clear framework for delivering 'streamlined' regulated advice, supported by examples of good and poor practice.

Box 5 – Example consumer needs that could be met by streamlined advice

- A 30 year old looking to start making regular contributions into a stocks and shares ISA in order to invest for a medium to long-term objective.
- A new parent looking to purchase protection to safeguard their new family against potential misfortune in the event of their death, disability or sickness.
- A grandparent looking to invest a lump-sum for their new-born grandchild's future education.
- A 24 year old wanting to know whether to save or invest for a deposit for their first house purchase in five to ten years' time.

FAMR believes that creating an environment that supports firms in delivering 'streamlined advice' within the MiFID regime will have a positive effect on the market. This is particularly the case for online automated advice models that have the ability to deliver advice in a more cost

53 Basic advice (COBS 9.6) is a short, simple form of financial advice which uses pre-scripted questions to determine whether a range of stakeholder products (such as stakeholder pension schemes, certain deposit accounts and child trust funds) will be suitable for a customer.

efficient way. A well-functioning market will see firms innovating to offer streamlined advisory services that are commercially viable and provide appropriate consumer protection.

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.

The guidance[54] should include a series of illustrative case studies and highlight the key considerations for firms in developing streamlined advice services, including:

- the core elements of a personal recommendation that firms streamlined services need to include;
- greater clarity on firms' ability to narrow their suitability considerations to exclude areas outside of the immediate scope of their advice; and
- the implications for the fact-finding, suitability assessment and customer disclosure parts of the streamlined advice process.

The guidance consultation should also consider whether the regulatory framework for firms can be simplified by removing or updating relevant existing guidance and linked terminology. Firms providing streamlined advisory services will need to consider the types of product that are appropriate for customers within their target market. If they restrict the scope of their advice in any way (for example, to advising on their own range of products), they will need to clearly explain the nature of this restriction to potential customers. This explanation needs to be provided in good time ahead of the consumer receiving advice.

Qualifications

The RDR raised the standards of professionalism for advisers. Under these rules, employees giving advice on retail investment products to retail clients need to attain appropriate qualifications[55]. Its aim was to create a sector that consumers trust and want to engage with.

The RDR Post-Implementation Review found that these new rules have been successful in driving up standards of professionalism. They have also resulted in many advisers obtaining higher qualifications in order to provide an enhanced level of service to their clients.

However, 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 would also like 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.

FAMR believes that the higher qualification standards of advice introduced in the RDR have improved the quality of advice consumers receive. The Review does not believe that the

54 The guidance will need to be consistent with the requirements of MiFID and MiFID II when it is implemented.

55 The appropriate qualifications are provided by qualification providers, known as the Awarding Bodies, and they are based on levels of difficulty, derived from qualification and credit frameworks. Level 4 is the equivalent of the first year of a university degree.

requirement for retail investment advisers to hold QCF Level 4 qualifications is an unreasonable standard for employees to acquire. However, FAMR does accept that more can be done to create a more flexible regime to support the development of a new generation of well-qualified advisers.

The FCA's existing training and competence rules allow employees who have not yet been assessed as competent to give advice on retail investment products as long as certain conditions are met. Chief among these is that the employee should be appropriately supervised at all times by a qualified individual[56]. For advice on retail investment products, employees are allowed 30 months from the date they start giving advice to acquire an appropriate qualification. This means that those who are not yet fully qualified can contribute in various ways to the advice process, under appropriate supervision.

As part of its guidance on MiFID II, the European Securities and Market Authority (ESMA) has recently published guidelines on the assessment of knowledge and competence of staff giving investment advice, which are broadly similar to the UK's current domestic rules[57]. These guidelines allow firms the flexibility to determine how trainees should be supervised within the firm (e.g. it is not necessary for them to be shadowed by a qualified adviser). They also give employees up to four years to acquire an appropriate qualification and appropriate experience.

In addition, the Government is proposing to extend the Senior Managers Regime to all FSMA-authorised firms. The Bill is expected to receive Royal Assent later this year, with implementation likely to be during 2018. Once Parliament passes the Bill it will fall to the regulators to consult on the detailed rules and guidance to implement it.

The Senior Manager and Certification Regime (SMCR) increases accountability and oversight in firms, making it easier for firms and FCA supervisors to be clear about who is responsible for what. As the new regime is extended and applied to advisory firms, it will strengthen the way they oversee the delivery of their services and help contribute to increasing standards of professionalism.

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.

FAMR believes that modifying existing time limits to align with MiFID, thereby allowing employees up to four years to acquire an appropriate qualification and experience, would strike the appropriate balance between:

- permitting firms greater flexibility, thereby allowing a new generation of advisers to develop their skills while working; and
- ensuring that advisers achieve an appropriate level of professionalism to provide suitable advice and engender trust with consumers.

FAMR also believes that the introduction of the SMCR will provide firms with greater incentives and ability to ensure that the level of supervision is appropriate to the risks in their business.

56 FCA Training and Competence sourcebook (TC).

57 www.esma.europa.eu/press-news/esma-news/esma-publishes-final-report-mifid-ii-guidelines-assessment-and-knowledge

Clarifying the rules on cross-subsidisation

The RDR introduced certain requirements on firms advising directly on their own products ("vertically integrated" firms). These firms are required to ensure that the charges for their advice service cover the costs of providing that service, and that the firm does not unreasonably cross-subsidise these costs from other areas of the value chain, such as their products. These rules were intended to prevent such firms from subsidising the costs of advice through their product charges and thus offering advice as a "loss-leader" in order to sell investors their own products. Allowing this would have placed vertically integrated firms in a privileged position and restricted competition in the advice market, to the detriment of consumers.

Some respondents to the Call for Input suggested that these rules have reduced the flexibility for firms to develop business models that are aimed at those with less wealth, because firms are unable to cross-subsidise during the first few years of the business, when business costs are not being recovered on a standalone basis. Some firms have also suggested that the direct impact of this has been that firms have to charge a higher fee for advice to ensure that the business model makes economic sense.

A number of large firms have stated that this is a particular barrier to developing automated services for the mass market, which has significant upfront costs, both in terms of setting up the architecture required and in terms of initial marketing spend.

A number of respondents suggested that some flexibility in the existing cross-subsidisation rules would be helpful in allowing them to develop business models to provide advice to consumers with less wealth.

The current guidance around cross-subsidisation states that "*the allocation of costs and profit between the adviser's charge and product cost should be such that any cross-subsidisation is insignificant in 'the long term'*". The words "long term" are not defined and each case has to be considered on its particular facts. However, when considering this question, the FCA generally looks, as a starting point, at whether the costs will be recovered over a payback period which is reasonable compared to the time which may be available to non-vertically integrated firms investing in new business models as well as not being inconsistent with the firm's standard payback period. It is clear from FAMR's research that firms are not widely aware of this and many assume that the allowable cost recovery period is very limited.

FAMR believes that the basic principles set out by the RDR remain valid – that vertically integrated firms should not be able to exploit their control of product manufacturing to secure an unfair competitive advantage in the provision of advice. Equally, as envisaged by RDR, it is reasonable for firms to be given initial flexibility in recouping the costs of advice services through adviser charging.

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.

MiFID II

As discussed above, many of the specific requirements that govern the provision of financial advice are set by the EU through MiFID. These rules give firms flexibility to provide advice to a consumer on a single need. However, many firms have told FAMR that, to date, they have been unable to take advantage of this flexibility as they have not felt sufficiently confident of the regulatory requirements despite a number of regulatory interventions in this area.

The provisions of MiFID II are currently expected to apply from January 2018. However, the detailed implementing measures for MiFID II have not yet been published. FAMR appreciates that the recommendations it makes need to be consistent with the requirements of EU law. Where there are uncertainties, the FCA should work with the European Commission and ESMA to seek to resolve them.

FAMR believes its recommendations are permitted under the current MiFID II text. It will be important to try to ensure that the final version of MiFID II does not prevent the implementation of FAMR's recommendations.

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.

Smarter Communications & Suitability Reports

In June 2015, the FCA published a Smarter Consumer Communications Discussion Paper (DP). The DP initiated a debate around how the FCA, industry and other stakeholders can work together to deliver information to consumers in smarter and more effective ways. Respondents to the DP were very supportive of the initiative and the FCA is intending to publish a Feedback Statement in the Spring.

Some respondents to the DP and the FAMR Call for Input suggested 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. However, FAMR notes that many firms spend significant time on producing suitability reports and including detail which goes beyond what is required by the rules. Some industry bodies are keen to engage more with the FCA on this topic, with a view to streamlining the suitability reports produced by firms. FAMR considers there to be scope to improve the quality of, and shorten the time spent on, suitability reports and make them more accessible for consumers. This includes, for example, layering information so the most important material is included towards the start of the report and simplifying the language used.

The FCA agrees with this and the Smarter Communications work on suitability is aimed at making the process more engaging and easier to understand from a consumer perspective, and providing firms with more regulatory clarity in relation to suitability reports.

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.

3.4 Costs and the role of technology

As set out in Chapter 2, providing face-to-face advice has significant fixed costs, which can drive commercial decisions concerning where to focus services.

This section considers ways in which certain costs could be reduced to allow firms to deliver less expensive advice to consumers, without compromising the quality of advice provided to consumers.

There was widespread agreement that technology, including fully automated advice models, has a key role to play in reducing the cost of advice and developing new ways to engage consumers. Even where consumers continue to seek interaction with an adviser, most respondents agreed that technology can complement advisers by reducing the time involved in, and therefore the costs of, the advice process.

Feedback to the Review suggests that technology and innovation can play a big role in: reducing the cost of advice, ensuring consistently high standards of advice and increasing the accessibility of advice for consumers. Some respondents suggested that since these models are fundamentally different from face-to-face advice, they also present different challenges for firms and for consumers. Therefore early regulatory engagement with firms looking to develop these models will help ensure that firms get these models right at the outset and that the models produce the right consumer outcomes. Respondents also suggested that as automated models are potentially more scalable than face-to-face models, it is important that models with mass market impact can be developed and tested in a way which allows firms to understand the potential impact across a range of customer circumstances and receive feedback on the regulatory implications of their model.

Helping firms develop technology-based solutions for delivering high quality advice

While many consumers will continue to seek face-to-face advice, technology-based models are poised for growth. FAMR wants to support the development of mass market automated advice models that have the potential to bridge the advice gap, whether they are fully automated, hybrid (i.e. with human interaction in the process) or tools to bring efficiencies to the face-to-face advice process.

The FCA has already provided individual support to a number of firms that are using technology to deliver mass market advice. The FCA has also developed an Innovation Hub to encourage the provision of new services to consumers. FAMR believes that the FCA should build on these successful initiatives to support more firms as they bring new technology-based models to market. FAMR recommends that the FCA establishes a team to do this, drawing on expertise from different areas of the FCA as required. This 'Advice Unit' could form part of Project Innovate[58].

58 Project Innovate is an FCA department that was set up to encourage innovation in the financial services sector. It provides innovative businesses with feedback on the regulatory implications of their business model and tackles structural issues that impede competition through innovation in the market

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.

The objective of the Advice Unit should be to support the development of automated advice tools that can help provide low cost, high quality advice to mass market consumers in areas of investment advice, protection and retirement income planning.

There should be two main components of this initiative. First, the FCA should develop a general toolkit that all firms providing advice to consumers can access. This toolkit could include:

- Best practice on methodologies for testing and evaluating automated advice models. These best practices will evolve over time as more models are developed and will be made accessible to all firms, so that firms are able to use this information to do a self-evaluation of their automated advice models.

- A bespoke guide for firms looking to deliver automated advice to consider when undergoing the authorisation process so such firms are better prepared to for the process and able to complete it more efficiently.

- Standardised testing scenarios which firms could use to gauge the effectiveness of their models.

The second component should provide 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. Support should be tailored on a case-by-case basis including a combination of regulatory advice, identification of concerns or risks from a consumer perspective following standardised testing, and working with firms in developing specific tests for assessing and reducing these risks. Both the FCA and the Financial Ombudsman Service should be involved in this process and provide feedback to the firm throughout.

In order to share best practice, the FCA should publish regular anonymised reports setting out what has been learned from tests with various firms. Agreeing to this publication should be a pre-condition for firms seeking access to the Unit. This will create a body of good and bad practice available to all providers operating in the advice market. The Advice Unit will also enable the FCA to expand their illustrative case studies for streamlined advice over time.

The Unit should be designed to support firms and provide regulatory clarity, and highlight the risks relating to a particular model. However, the decision to proceed with the launch of the model will be that of the firm, who will be responsible for ensuring the delivery of good consumer outcomes as it is operated in practice.

Some respondents suggested that the FCA should pre-approve advice processes before a firm takes the proposition to market. However, FAMR does not think this option is desirable. As highlighted by the Expert Advisory Panel, this approach could stifle innovation as firms would seek to replicate an automated model that had received FCA approval rather than develop a model that is customised to their business and consumers. FAMR also shares the concerns of the Expert Advisory Panel that pre-approval could lead firms to target regulatory approval at the expense of good consumer outcomes. Finally – the adoption of such an approach would radically change the nature of the FCA's role and the balance of risk between the regulator and the industry. FAMR does not believe there is currently a case for such a change.

The Review believes that the proposal set out above would strike an appropriate balance between giving firms a better understanding of the regulatory implications and risks of their advice models while retaining their responsibility for providing suitable advice to customers.

Portable fact finds

When providing financial advice, firms must obtain the necessary information regarding the customer's knowledge and experience, financial situation and investment objectives to enable the firm to make a recommendation which is suitable for the customer. This is known as the fact find. Fact finds are likely to include a variety of objective information (such as the client's age, marital status and investment history), and more subjective information, such as a customer's attitude to risk.

While part of the fact find will usually be carried out during a meeting with the customer, advisers may also need to collect further documents on the customer's existing products. This often requires the adviser to obtain the information directly from the customer's product providers.

The fact find can be a lengthy process, and some firms have told us 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.

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.

This guidance will look to clarify the distinction between the types of information provided by a third party that may be able to be relied upon and objectively verified, such as a client's age and investment experience (provided a firm has processes in place to check with the client that the information is accurate and up-to-date), and the types of non-standardised information that firms are unlikely to be able to rely on if being provided by a third party (such as a client's attitude to risk).

4.
Accessibility

In addition to addressing the barriers to the supply of advice, it is important that FAMR should seek to tackle the barriers which prevent consumers from seeking out advice and other forms of support. Many people feel that financial advice is "not for them", are unsure how to go about finding good financial advice, or are disengaged from financial planning altogether.

The workplace presents an opportunity to help more people access financial support and increase take up of financial advice. However, some employers are wary of offering financial help to their employees due to regulatory liability concerns.

- **The FCA and The Pensions Regulator should develop a new factsheet to set out what help employers and trustees can provide on financial matters without being subject to regulation.**
- **The Financial Advice Working Group should work with employers to develop a guide to the top ten ways to support employees' financial health.**
- **The Government should explore ways to improve the existing £150 income tax and National Insurance exemption for employer-arranged advice on pensions.**

Greater flexibility in how consumers pay for advice could also help consumers who feel unable to access advice because of high upfront charges. The current rules offer flexibility to charge for advice in instalments.

- **The FCA should clarify the current flexibility in how firms can charge customers for financial advice and ensure that firms are aware of this flexibility.**

The financial services industry can seem inaccessible. In some areas, particularly pensions, where people can build up several pots in different places over their working lives, it can be difficult for consumers to access data on their own savings in order to support planning. Engaging with financial services can also be confusing. Many people do not understand the terms used to describe different forms of financial support, notably the difference between "regulated advice" and "guidance". These factors can lead to a lack of engagement.

- **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.**
- **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.**
- **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.**
- **The Financial Advice Working Group should lead a task force to design, test and promote a set of rules of thumb and nudges to encourage consumers to engage with their finances.**

- **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 nudges, and encouraging the use of them by employers, government agencies and charities.**

The large majority of respondents to the Call for Input felt that consumers were disengaged from financial advice. Confusing terms, high costs and a lack of trust stemming from historic mis-selling put people off seeking advice to help them make financial decisions. Many people are unclear about the benefits of advice or question its value for money. These factors combine to mean that some consumers who could benefit from advice or guidance may not be seeking it out.

This chapter sets out FAMR's recommendations to improve consumer access to financial advice by taking a number of steps to stimulate consumer demand and make advice more accessible to consumers.

4.1 The role of employers in providing help on financial matters

Over the course of FAMR, a range of stakeholders stated that the workplace had an important role to play in supporting good financial decision-making among their employees. 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. Scottish Widows research found that 57% of employees want financial advice in the workplace[59], and Deloitte reported that 33% of consumers would pay for an in-house financial adviser provided by their employer[60].

Employer concerns about regulatory liability

However, a number of stakeholders suggested that concerns about regulation and potential liability deter some employers from offering financial support for their employees. There is a broad misconception that employers will be exposed to regulatory liability if they offer support to help their employees. There seems to be low awareness among employers about their ability to offer help to their employees without being subject to regulation. FAMR has been told that some employers are therefore choosing what they perceive to be the least risky option of doing little or nothing.

Some stakeholders told us that employers were concerned they could be caught by the financial promotions regime if they talked to their employers about workplace pension products. However, there are a number of specific exemptions from the financial promotions regime relating to various financial products (including pension schemes to which the employer contributes) which may be available to an employer[61].

59 Scottish Widows, *Workplace pension report*, September 2013.

60 Deloitte, *Bridging the advice gap – Delivering investment products in a post-RDR world,* 2012.

61 Provided relevant conditions are met.

FAMR has also been told that many employers do not attempt to offer support or guidance due to the risk of crossing the regulated advice boundary without being authorised to give advice. FAMR has recommended a number of changes to clarify the boundary and set out what organisations can do outside of regulation. However, and in any case, employers would not need to be authorised by the FCA so long as the employer is not in the business of providing investment advice and does not receive any commercial benefit for helping its employees.

FAMR believes that providing more clarity to employers on navigating potential regulatory liability when providing financial support to their workforces is likely to give them confidence to expand the support they provide to their employees. The Pensions Regulator (TPR) has reported that trustees also have concerns in this area.

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 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.

Despite the concerns held by some employers about regulation, there are a number who are leading the way and are taking action to help employees with their decisions about their finances. This is partly due to the recognition that good financial health supports productivity, with a fifth of employees saying in a recent survey that worrying about their finances affects their work[62].

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.

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.

Increased understanding around regulation and more effective sharing of current best practice should result in employers being better placed to support their employees.

4.2 Taxation

A number of stakeholders noted the existence of a £150 income tax and National Insurance exemption for advice on pensions arranged by an employer. This exemption means that, if an employer arranges financial advice for employees, those employees are not liable for tax on the value of the advice as a benefit in kind.

62 Barclays, *Financial Well-being: The Last Taboo in the Workplace*, May 2014.

However, stakeholders noted that, in its present form, this exemption 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[63], FAMR believes that this exemption could be altered to provide employers with an easy way to support their employees in financial decision-making.

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.

Recommendation 13:

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

Responses to the Call for Input revealed that there is a need for financial advice at retirement that is not currently being met. A measure comparable to the tax exemption for employer-arranged pension advice, available to the self-employed and those who do not have access to advice through the workplace, could go some way to meeting this need. One way of delivering this benefit would be to allow consumers to use a proportion of their pension pot to pay for advice.

FAMR believes that there is real value in giving people a strong nudge to seek financial advice well before retirement. High quality financial advice can have a significant impact on retirement incomes if received early. Unbiased, an independent UK directory of advisers, found that those who sought retirement advice increased their retirement savings by an average of £98 a month as a direct result.[64] FAMR therefore recommends that the Government explores options to give people access to a small part of their pension funds to pay for financial advice before normal retirement age. This 'nudge' could take place five to ten years before individuals reach their normal minimum pension age (currently 55) so that the individual has enough time to plan for, and if necessary step up their savings rate, ahead of retirement.

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.

4.3 Adviser charging

One of the main aims of the RDR was to improve outcomes for consumers by removing the potential for commission payments made by product providers to intermediaries to bias the recommendation made. Under the RDR, advisers need to charge the customer directly for the service they receive, and have a transparent charging structure which gives customers clear information on the charges they will pay. Some examples of charging methods include hourly rates, a fixed fee, charges based on a percentage of the investible assets advised on, or a combination of these. FCA rules state that charges must be clear to the consumer and advisers must disclose the charging structure to a client upfront and in writing. 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.

63 Unbiased.co.uk research carried out in July 2015 (230 advisers). Unbiased.co.uk, *Cost of Advice guide 2015*, September 2015, https://www.unbiased.co.uk/cost-of-financial-advice.

64 Unbiased.co.uk survey. Sample size consists of 213 UK savers aged 40 and over who have sought advice on their retirement planning, taken from an overall sample of 1,486 pre-retirees, https://www.unbiased.co.uk/value-of-advice/report-stats.

The majority of respondents to the Call for Input who commented on this matter agreed that the post-RDR adviser approach to charging produced good outcomes for consumers, and there was not a case for a return to the pre-RDR rules on charging structures.

A small number of respondents to the FAMR Call for Input recommended that commission be reintroduced for financial advice. However, these were outweighed by the opposing view. Given the strong arguments against a commission-based system, such as the lack of transparency and distortion of incentives, FAMR does not believe there is a case to consider this, and is therefore not recommending a return to commission-based financial advice.

During the Review, concerns were raised about the potential consumer detriment stemming from the use of commission on non-advised sales, particularly the sale of annuities. The FCA's October 2015 consultation paper CP 15/30[65] included a chapter covering the issue of commission payments on non-advised annuity sales. The consultation closed on 4 January 2016 and the FCA is now analysing the responses to the consultation. 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.

The current adviser charging rules already allow firms to receive an adviser charge in instalments if it is in relation to an ongoing service provided by the firm or the advice relates to a regular-premium product. Further, for a single premium product, firms have the flexibility to arrange a credit facility for an individual to pay for advice in instalments over a number of years.

Such agreements are not (with the exception of the provisions relating to unfair relationships between borrowers and lenders) subject to the Consumer Credit Act or FSMA if the credit is repayable in no more than 12 instalments within 12 months of the date of the agreement and involves no charges or interest[66].

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 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.

4.4 Consumer access to their financial data

A number of responses to the Call for Input highlighted the time and difficulty involved when consumers attempt to access data from financial institutions. Poor access to data impedes consumers' ability to make informed decisions, as they are unable to view and bring together information about their financial picture. It also makes the task of providing advice more difficult, as advisers need to devote large amounts of time to extracting data from banks and other

65 (http://www.fca.org.uk/static/documents/consultation-papers/cp15-30.pdf).

66 This applies to a borrower-lender-supplier agreement, which broadly covers where the credit takes the form of the deferment of the obligation to pay by the adviser themself, or where the adviser has pre-existing arrangements with a lender to provider finance for advice charges.

institutions. Many respondents suggested that digital technologies could give consumers better access to their data in more useful formats, allowing them to take greater control of their finances.

Open data[67] has the power to transform the way consumers manage their finances. Midata[68] already allows consumers to access data about their use of a range of personal finance products so they can get the best deals. The Open Banking Working Group[69] has also announced an ambitious programme to develop an Open Banking Standard. Initially, this open standard will apply to personal and business current accounts, but the Government's long-term aspiration is that similar standards will be used across a range of financial products to give consumers access to their data and allow them to make better-informed choices.

The Open Banking Standard intends to make it possible to share data that banks have historically held, by means of an open application programming interface (API), a powerful technology that can help provide secure shared access to private data from multiple sources.

When securely shared or published openly using APIs, this data can be used to build resources and applications that will better help people find what they need. For example, customers might be able to look for a mortgage more easily and businesses might be able to share data with their accountants. The open standard will mean consumers have better options for choosing and using financial products, and better ways to manage their finances.

The pension market is another potentially powerful application of APIs. On average, an individual will work for 11 employers during their working life[70]. In the context of automatic enrolment, this is likely to increase the number of people with multiple pension pots in the future. Research by Which? found that 37% of people aged over 50, employed and with a personal pension, say they find it difficult to keep track of their pension pots[71]. Additionally, people often hold pensions with a number of different providers, making it difficult for individuals to obtain a complete picture of their likely position in retirement and take informed decisions in preparation.

FAMR is encouraged by the progress made by industry in developing the 'pensions passport'. A pensions passport is a single document containing information about an individual's pensions savings that they receive six months before retirement. It includes information on how much a retiree has saved into an individual pension, what company that pension is held with, and whether they have any guarantees on the pension that would provide them with market-beating annuity rates or lump sums. It would replace pension 'wake-up packs' which are criticised as lengthy and confusing.

There are currently a number of projects looking at the idea of a 'pensions dashboard'. A pensions dashboard is a consumer-friendly digital interface that would display information about all of an individual's pension savings in one place. This data would ideally be retrieved directly from providers and would not require lengthy data input by the individual. The dashboard could update in real time and contain projections of pension income based on different scenarios. These projects involve a wide range of industry and Government bodies.

67 Open data is publicly available information that anyone can access, use or share.

68 Midata enables consumers to get detailed comparisons of the best personal current accounts for them based on how they use their bank account. This allows consumers to use their own data to help better manage their finances.

69 The Open Banking Working Group is a collective of banking, open data and FinTech professionals. It was set up in September 2015 at the request of HM Treasury to explore how data could be used to help people transact, save, borrow, lend and invest their money.

70 DWP, *Making automatic enrolment work*, 2010 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/214585/cp-oct10-full-document.pdf.

71 Populus, on behalf of Which?, interviewed 1178 UK adults online between 27th January and 3rd February 2016: 504 UK adults had retired in the last 5 years and had a personal pension, 674 were over 50 years of age, employed and had a personal pension. Populus is a member of the British Polling Council and abides by its rules. http//press.which.co.uk/whichpressreleases/which-urges-government-to-act-on-pensions-dashboard/

In the FCA's Retirement Income Market Study the FCA recommended the development of a dashboard to enable consumers to view their lifetime pension savings (including the state pension) in one place[72]. Given the advanced nature of the pension passport initiative, and the opportunity for the pensions dashboard to build on this progress by allowing consumers to access their data at any time, not just six months before retirement, FAMR strongly supports this idea, and believes that it has the potential to allow consumers to take greater control of planning for their retirement.

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.

HMT should co-ordinate the Government's involvement in the dashboard, to ensure that it provides appropriate legislative and administrative support as the project develops.

4.5 Terminology

Firms and consumer groups suggest the various terms used to describe financial advice lack clarity, and that this undermines consumers' ability to understand the nature of various services and the protections they afford, and therefore to choose between them.

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, which make clear the distinction between regulated advice and guidance.

The labels should explain in simple, plain English:

- The nature of the service to the consumer, in particular, clarity on 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.

It will be important that the descriptions are well understood by consumers. FAMR is therefore proposing that specific wording should be decided following consumer testing, rather than making final recommendations on appropriate terms at this stage. It will also be necessary to determine whether the implementation of the solution should be led by the industry or involve regulatory changes.

72 The FCA noted that it would be important to consider various potential models and to test these models on an incremental basis. It suggested that this should build on DWP work on automatic transfers and also take into account the experiences of other countries such as the Netherlands.

Suggested terms

One potential approach could be a binary framework that distinguishes between "guidance" and "advice with a personal recommendation". However, many respondents to the Call for Input suggested alternative labels. A selection of these are set out below.

Box 6 – Suggested terms

Guidance	Advice
• Financial guidance	• Financial advice
• 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
	• Financial planning

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.

4.6 Nudges and rules of thumb

Many consumers are not engaged with their finances. Mintel research shows that 30% of consumers show either low or extremely low interest in financial management[73]. These consumers would not necessarily seek out advice from which they could benefit, even if it was more affordable.

A number of respondents suggested that nudges at crucial life stages could be used to prompt consumers to think about their financial position and consider taking action[74]. There was also support for the development of rules of thumb as a means of providing easily digestible support for those who don't have the time or inclination to seek out advice. The Money Advice Service has previously identified some of the key positive and negative life events in its Milestones and Millstones research, and highlighted rules of thumb as a way to guide people at these points in their lives[75].

Box 7 – An existing rule of thumb: investing your pension

The Money Advice Service has a number of rules of thumb on its website. As an example, there is a rule to help those with defined contribution or workplace pensions decide how to invest their pots[76]:

As a general rule of thumb you can afford to take more risk when you're young and less as you get older – the longer your money will be invested for, the more scope you'll have to take any ups and downs in asset performance in your stride.

73 Mintel, *Consumers and Financial Advice - UK*, May 2015.

74 A "nudge" is a simple and subtle prompt or message designed to positively influence decision-making. Nudges are increasingly being used in a policy text by behavioural economists such as the Behavioural Insights Team. The FCA has published a number of behavioural economics papers, including 'Occasional Paper No. 10: Message received?', which found for instance, that text alerts could reduce the overdraft charges people pay.

75 Money Advice Service, *Milestones and Millstones,* July 2015.

76 https://www.moneyadviceservice.org.uk/en/articles/making-the-most-of-your-pensions.

FAMR believes the successful development of nudges and rules of thumb could have a significant impact on the way consumers engage with their finances.

Recommendation 18:

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

These nudges should include timely prompts for people to consider their financial position, and rules of thumb to give people a steer on simpler needs.

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**
  "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.*

The development and dissemination of nudges and rules of thumb of this kind has the potential to have a positive effect on those who are not currently engaged with their finances. However, it is clear that interventions or nudges will only be effective if well-designed and targeted, and so behavioural testing will be an important part of the work to develop them.

It is also important that these nudges and rules of thumb are updated to take account of future changes to tax and legislation, so that they remain fit for purpose. In light of the proposed changes to the provision of statutory guidance, it is best to consider the most appropriate body to do this after 12 months.

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.

5.
Liabilities and consumer protection

It is crucial that consumers receiving financial advice have confidence in the regulatory system and have access to redress if they are wrongly advised. FAMR believes that the existence of appropriate protection for consumers is essential to ensuring they feel confident in taking up financial advice. However, it is also clear that the potential risk of paying redress in the future on advice given previously is a concern for many firms.

FAMR has therefore sought to understand better the role of firms' liabilities for redress in the context of the advice gap. In particular, FAMR has considered the role that liability, or concerns about liability, may have played in creating an advice gap, and whether firms' concerns can be addressed without an unacceptable reduction in the level of consumer protection. The challenge for FAMR has been 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 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.

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 in funding the levy is not necessarily being borne by those that create costs for the scheme.

- **The FCA is to commence a review of how the FSCS is funded in 2016. FAMR recommends that this should explore:**
  - **risk-based levies**
  - **reforming the FSCS funding classes**
  - **whether contributions from firms could be smoothed by making more extensive use of the credit facility available to the FSCS**
- **Following its review of FSCS funding, and in the light of the evidence from that review, the FCA should consider whether there is a case to look further at the professional indemnity insurance (PII) market in relation to the suitability and availability of cover for smaller advice firms.**

A number of respondents expressed concern about the lack of a longstop after which consumers cannot complain about financial advice. They suggested that this indefinite liability has an impact on the ability to obtain investment into advisory businesses or to sell them, and argued that a standard longstop should be introduced. FAMR has considered the case for a blanket fifteen-year limit on liability for financial advice and has concluded that this would not be in the interest of consumers, especially given the risks that arise with long-term products.

- **FAMR does not recommend the introduction of a fixed fifteen-year longstop as this could limit the protection available to consumers on long-term investment products**

FAMR is supportive of the role of the Financial Ombudsman Service in resolving disputes between consumers and firms. FAMR believes the Financial Ombudsman Service has a valuable role in its outreach work with firms, publicising its resources and guidance, and the data it collects. FAMR has worked closely with the Financial Ombudsman Service on the following recommendations:

- **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 expectations as to evidence in relation to historic sales and suitability requirements.**
- **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 whether to establish a more visible central area for terms 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.**
- **The report of the Financial Ombudsman Service-appointed Independent Assessor should be expanded to conduct a more in-depth analysis of the cases they consider and identify potential areas for process improvement from 2017.**

5.1 The Financial Services Compensation Scheme

The Financial Services Compensation Scheme (FSCS) is the compensation scheme of last resort for customers of authorised financial services firms. The FSCS can compensate customers if they have been given bad advice and a firm has become insolvent or is unable, or is likely to be unable, to pay valid civil claims made against it. The FSCS is funded by the financial services industry. Most authorised firms are obliged to pay an annual levy to the FSCS. The annual levy covers the FSCS's expected running costs and compensation costs. Interim levies may in addition be raised to cover unexpected costs.

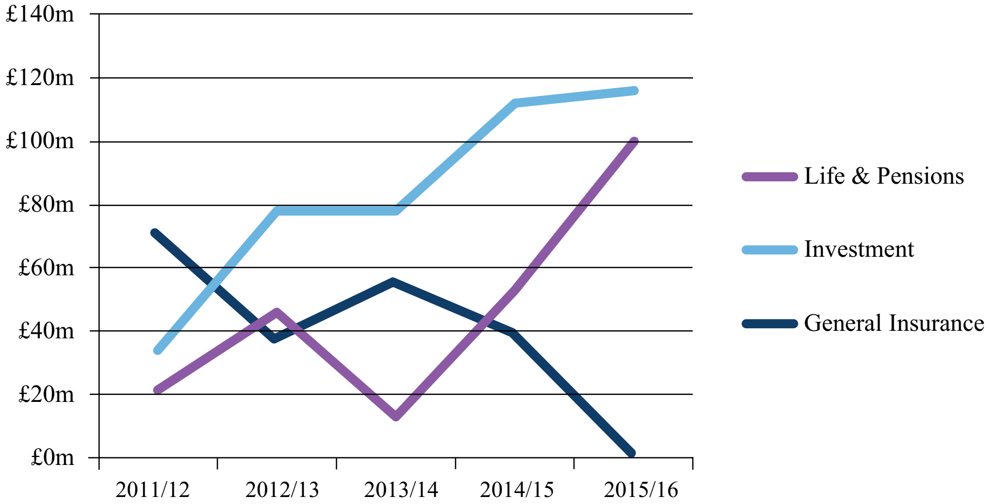
In response to the Call for Input, a number of stakeholders identified the costs of the FSCS as a barrier to firms providing affordable financial advice, primarily due to the size and volatility of its annual levies. In particular respondents highlighted the difficulty firms have in accurately predicting and budgeting for the FSCS levy and how an unforeseen increase in FSCS compensation costs can drive up the overall cost of providing financial advice.

Another theme that emerged from responses to the Call for Input was a concern about the fairness of the FSCS levy. Under the current funding model a firm's levy is proportionate to the size of their annual eligible income and the amount of FSCS compensation accrued by their individual funding class. Each firm is placed in the FSCS funding class that best matches the services they provide, such as general insurance intermediation, and sees them contribute to the FSCS compensation costs created by their industry peers.

Chart 4 demonstrates the variation in the FSCS levy costs across funding classes. Increases in levies on particular funding classes are usually associated with significant failures, such as Alpari (UK) Ltd and Catalyst Investment Group Ltd (Investment intermediation class) or increases in claims relating to self-invested personal pensions (SIPPs) (Life & Pensions intermediation class).

Similarly, decreases in the General Insurance intermediation class are partly attributable to declining numbers of payment protection insurance (PPI) claims in recent years.

Chart 4 Annual FSCS levy costs for the three largest intermediation funding classes



Source: FCA and FSCS data.

However, the FSCS levy does not reflect whether a firm is engaged in specific activities that tend to cause compensation pay-outs, such as providing advice on more complex and higher risk products. This has led many stakeholders to question why the wider advice industry should pay for the compensation costs incurred by a minority of firms. FAMR has therefore concluded that there is merit in considering possible ways to redesign the levy without reducing consumer protection.

Recommendation 20:

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.

As part of this review, the FCA should consider:

Reforming the FSCS funding classes to better distribute the FSCS levy among members of the intermediation funding classes. This might be achieved, for example, through the creation of a shared intermediation funding class, to replace three of the current four intermediation classes with a membership large enough to smooth out the peaks and troughs of the FSCS compensation costs and produce a more consistent annual levy.

Utilising the credit facility available to the FSCS, or a similar fund, to spread payment of significant compensation costs and consequent fluctuations in running costs (such as in respect of Keydata) over a number of years. This could increase the overall cost over time, due to interest being charged), but could make the FSCS levy costs and consequent fluctuations in running costs more predictable and allow firms to budget on a longer-term basis.

The introduction of a risk-based levy. The review should explore whether a risk-based levy system is a practical and cost effective way to reflect the risk a firm poses to the FSCS. Ways to do this might include applying different levies depending on the types of services a firm provides (i.e. the riskiness of its business), or by reference to the extent that a firm's future compensation costs could be met by adequate capital reserves or professional indemnity insurance (PII) (i.e. the likelihood of it failing). FAMR recognises the complexity of this option and the need for careful consideration of how practical this approach could be and for a comprehensive cost benefit analysis to be conducted before this option could be pursued.

5.2 Professional indemnity insurance (PII)

A number of respondents have highlighted current problems which smaller firms experience in obtaining adequate PII at an affordable price. This is partly because there are few insurance firms in the market, but also because it may sometimes only be possible to obtain restricted cover, which can include exclusions for particular types of products and large excesses. Some insurers also told FAMR that the potential total premiums in the market for PII for personal investment firms may be significantly less than the sector's total annual redress liabilities.

As a consequence the industry may be less able to absorb the impact of liabilities, leading to higher numbers of firms failing and greater reliance on the FSCS. Difficulties in obtaining appropriate PII cover may also contribute to barriers to firms entering or exiting the advice market, for example by discouraging investors or prospective purchasers of firms from taking on existing liabilities where it is not possible to obtain suitable protection. This could harm competition in the advice market. Further, difficulties in obtaining cost-effective "run-off cover" can leave retired firms or individual advisers vulnerable to claims and consumers less likely to receive full redress.

FAMR has not explored this in detail but believes there may be merit in considering the operation of the PII market more closely to ensure it is functioning well. Before doing so FAMR believes it is important to establish the relationship between PII and FSCS claims.

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.

5.3 The Financial Ombudsman Service

The Financial Ombudsman Service has a crucial role in ensuring redress for consumers, and building confidence in the financial services sector, providing a quicker, easier alternative to the courts.

Consumer groups have consistently emphasised the essential role of the Financial Ombudsman Service. FAMR agrees that an effective financial advice market depends on consumers having access to a fair, objective means of resolving disputes with firms.

However, during the Review, a number of firms, both large and small, raised concerns about some aspects of how the Financial Ombudsman Service operates. Firms have suggested that decisions made by the Financial Ombudsman Service may contribute to nervousness by firms about delivering advice. A number of concerns have been raised, in particular, a lack of certainty about the approach the Financial Ombudsman Service will adopt to individual cases, a risk of inconsistency between decisions and a concern that cases will be judged according to the standards applicable at the time of the complaint rather than at the time of the advice. Firms have also reported a perception that the Financial Ombudsman Service will typically side with the customer, although the current uphold rate of 39% of all complaints against financial advisers does not suggest that the Financial Ombudsman Service is favouring consumers at the expense of firms.

Box 8 – The Financial Ombudsman Service: the consumer journey

1. *Financial advice* – a consumer receives financial advice.
2. *Consideration by firm* – the consumer makes a complaint to the firm about the advice.
3. *Final response* – the firm has up to eight weeks to consider the complaint and issue a final response letter, offering redress, remediation or remedial action, or giving reasons to reject the complaint.
4. *Referral to the Financial Ombudsman Service* – where a complaint has not been resolved by a firm to a complainant's satisfaction, there is a right to refer the complaint to the Financial Ombudsman Service within six months.
5. *Time limits* – the Financial Ombudsman Service cannot consider a complaint if the complainant refers it to the Financial Ombudsman Service more than six years after the event complained of, or, (if later) three years from the date on which the complainant became aware (or ought reasonably to have become aware) that they had cause for complaint.
6. *Adjudication* – where the Financial Ombudsman Service considers a complaint, an adjudicator will make an initial finding, based on what is 'fair and reasonable'. The law requires the Financial Ombudsman Service to decide each complaint on the basis of what they believe is fair and reasonable, with their rules requiring them to take account the relevant law, rules and good practice in the industry (as applied at the time of the event complained about), as well as the relevant facts. In the majority of cases, the Financial Ombudsman Service's approach is based on what courts would be likely to do in similar circumstances. However, in some areas of financial services, good industry practice has developed separately from the law. The Financial Ombudsman Service then decides each case on its individual merits.
7. *Ombudsman* – where a firm does not agree about the initial assessment, it can ask an ombudsman to consider the complaint again. The ombudsman will then issue a final decision which is binding on the firm, if the complainant accepts it.

FAMR is very supportive of the Financial Ombudsman Service's role. The Financial Ombudsman Service is committed to providing a fair service which considers each individual case on its merits, and its existence is a powerful incentive for firms to ensure that they handle consumer complaints right first time. FAMR believes that the Financial Ombudsman Service plays a critical role which benefits firms and consumers alike.

The Financial Ombudsman Service and FAMR have worked closely together throughout the Review, with the objective of identifying how the Financial Ombudsman Service is able to contribute to closing the advice gap and ensuring the right level of protection for consumers. As part of this process, the Financial Ombudsman Service has provided FAMR with data on long-term cases and a breakdown of cases involving financial advisers and the relevant products – this can be found at Annex D.

The Financial Ombudsman Service already works closely with firms and trade bodies to share best practice and disseminate findings. **However, there is more that can be done to help**

improve the transparency of the Financial Ombudsman Service's process and outcomes. FAMR and the Financial Ombudsman Service have worked together closely on the Review and FAMR asks the Financial Ombudsman Service to consider the following recommendations 22-25:

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.

This will enable industry and the Financial Ombudsman Service to come together to share best practice, and discuss specifics on areas of concern. In addition to the outreach the Financial Ombudsman Service already undertakes, they should engage more with advice firms on relevant issues.

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.

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.

In light of the concerns raised by firms, FAMR has also considered ways to review the levels of service provided by the Financial Ombudsman Service. The Independent Assessor already considers individual complaints from consumers and businesses about these levels of service (although her remit does not extend to whether the Ombudsman was right to uphold or reject a dispute between a business and a consumer). Each year, the Independent Assessor provides a report to the Board of the Financial Ombudsman Service, which sets out her findings and recommendations. FAMR considers there is scope to expand this role, in order to help identify any thematic or other issues which might be addressed to help improve processes at the Financial Ombudsman Service. Areas for investigation might include: how the Financial Ombudsman Service communicates about next steps; gathering and consideration of evidence; general trends in complaints and how the Financial Ombudsman Service might respond; and how effective complaints procedures were in relation to different categories of complainant.

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.

Recommendations 22-25 above are designed to enhance transparency and thus confidence in relation to the Financial Ombudsman Service's important work to resolve individual disputes between consumers and businesses fairly, reasonably, quickly and informally.

5.4 Longstop

In the Call for Input, FAMR recognised that the effect of indefinite liability on smaller providers is that they, their predecessors or successors may face complaints about advice provided to clients many years ago. FAMR committed to consider options which might address this.

Box 9 – Existing time limits on making a complaint to the Financial Ombudsman Service

The existing Financial Ombudsman Service time limits can already prevent the Ombudsman from considering complaints where what is being complained about took place more than six years earlier. They do, however, allow complaints to be made later in circumstances where the complainant only realised subsequently that there was a problem. The only time restriction in these circumstances is that the complaint must be made three years from the time the complainant realised (or ought reasonably to have realised) there was a problem. This applies regardless of the type or the term of the product or service complained about.

Some respondents to the Call for Input felt strongly that the risk of indefinite liability has a negative impact on financial advice businesses, including in terms of reducing investment and commercial incentives to provide certain types of advice. For this reason, some respondents supported the introduction of a longstop limitation period for referring complaints to the Financial Ombudsman Service in addition to the existing three and six-year time limits, broadly reflecting the approach in the general law in England and Wales[77], where claims brought 15 years after the events to which they relate can generally be ruled out of time.

However, other respondents felt that the introduction of such a longstop would not reflect the reality of financial services advice, where many products sold are very long term and consumers cannot reasonably be expected to realise they have a cause for complaint for many years, because it can be very difficult to assess the quality of advice earlier on. Accordingly, introducing a longstop would amount to removing an important consumer protection, by preventing the ability of consumers to obtain redress for long-term products such as pensions.

As part of its analysis, FAMR considered the scale of this issue by examining claims data from the Financial Ombudsman Service over the last three years, set out at Annex D (as well as some data from firms and their insurers). This shows comparatively few complaints relating to advice provided longer ago than fifteen years, which might be barred if a fifteen-year longstop were in place – estimated by the Financial Ombudsman Service to be an average 216 complaints per year, of which only 30% were upheld (64 on average)[78].

Over the last three years, an estimated 48% of these types of complaints considered by the Financial Ombudsman Service were concerning advice about mortgage endowment products. However, given the historic nature of this specific problem and the fact that many of these complaints date from the pre-RDR era, FAMR believes that there may be a natural decline in the numbers of these complaints.

With this in mind, HMT and FCA will review the data on complaints about advice relating to long-term products, as part of the planned review of outcomes in 2019, to determine the extent to which such complaints may continue to have a bearing on industry. As discussed above, FAMR also recommends that the Financial Ombudsman Service publishes more detailed data on complaints, which will allow firms and other relevant parties such as investors or insurers, to have a better understanding of long-term liabilities, lessening any impact.

77 Scotland has separate statutory law on limitation, where the broadly equivalent longstop is 20 years.

78 This refers to the number of complaints against independent financial advisers, and excludes e.g. banks and insurance firms.

While FAMR is sympathetic to firms' concerns about the costs of retaining records for short term advice indefinitely and the potential difficulties of dealing with such claims many years after the event, it believes that the Financial Ombudsman Service is well-equipped to take these issues into account when considering any individual complaints. Complaints uphold rates at the Financial Ombudsman Service do not bear out the perception of some stakeholders that the Financial Ombudsman Service will tend to find in favour of consumers in such instances.

Despite the relatively low complaints numbers, FAMR believes that for consumers who do have cause to complain, this can have significant individual consequences. FAMR does not believe the advice market will flourish without consumer confidence in advice about long-term products, and ensuring appropriate access to redress is a significant part of that. FAMR has therefore concluded that it would not be in the interests of consumers to remove protection for losses resulting from long-term advice or products by introducing a blanket, fifteen-year longstop.

Nonetheless, amongst other options, FAMR considered whether to introduce a 'variable longstop', directly linked to the terms of individual products. This would time-bar complaints made after the term of a product ended, reducing the risk of indefinite liability for firms, while still allowing consumers to complain about advice on longer-term products. However, there would likely be significant complexities for the Financial Ombudsman Service in operating such a rule, including difficulties in determining the terms of different products or in resolving other jurisdictional issues. On the other hand, there would only be limited benefits to firms in terms of reducing long term liabilities. These complexities and the associated costs mean that FAMR does not think this would be a proportionate response to the small number of cases likely to be barred by such a rule, with limited identifiable benefits to industry.

Lastly, a number of stakeholders felt that finance professionals were treated unfairly in respect of their liabilities as compared to other industries. In considering this issue, FAMR also took into account the position in other areas of long-term professional advice, where doctors, lawyers and accountants do not benefit from a 15-year longstop in respect of complaints about their services.

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.

6.
Next steps

This report has set out a number of recommendations 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***.

As noted in Chapter 1, for this vision to be realised, there will need to be continued commitment and co-operation not only from regulators and government but also employers, consumer groups and the industry. FAMR has been greatly encouraged by the level of engagement with the Review and by the wide agreement that more should be done to ensure consumers have better access to affordable, high-quality advice and guidance.

Tracking outcomes

FAMR considers that progress in achieving this vision should be judged against a number of success factors:

- Good availability of affordable, high quality advice and guidance, which consumers at all stages of their lives are able to access to help them with their particular needs.
- There is 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 engaged with their own financial affairs and so seeking out the advice and guidance they need.

FAMR is seeking to accelerate the market's development in these directions, given the pressing need to ensure consumers can get the help they want with their financial decision-making.

To help track the outcomes of FAMR against the vision set out above HMT and FCA will develop a baseline and indicators for the advice market.

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.

FAMR has made a number of recommendations for Government, regulators, and industry, which seek to improve consumers' access to advice. To ensure these are implemented successfully these parties will need to work effectively together and prioritise this work.

The various recommendations will follow different timelines, with some dependent on timeframes of European legislation such as MiFID. It is important that the FCA and HMT should report on the progress of implementation. After implementation is complete, and the initial outcomes of the changes are clearer, the FCA and HMT should review the initial effects of their respective initiatives on the advice market.

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.

6.1 Timeline for recommendations

Below are the anticipated timeframes for implementation of the FAMR recommendations. Some of these are dependent on EU initiatives and so are subject to potential change.

The EU initiative which will have the most significant impact on the timelines of the recommendations is MiFID II. This updates the Markets in Financial Instruments Directive (MiFID), which set standards across the EU in relation to the distribution of investments. MIFID II will include a number of requirements for firms providing advice such as the standards for ensuring personal recommendations are suitable, conditions about what third party inducements are permitted, and independence standards. It also requires that firms act honestly, fairly and professionally in the best interest of their clients. The provisions of MiFID II are currently expected to apply from January 2018, and the FCA intends to consult on conduct matters in 2016. The detailed implementing measures for MiFID II have not yet been published.

The Government should seek to ensure that EU law, in particular the final version of MIFID II, does not undermine the FCA's ability to follow through with the affordability proposals, as the FCA's work will need to be consistent with EU law.

The FCA may also need to account for future guidance issued by the European Supervisory Authorities. Where there are uncertainties, the FCA will work with the European Commission and ESMA to seek to resolve them. This could mean that the indicative timeline outlined below may need to change.

FAMR believes it is essential that in developing and implementing these initiatives the Government and the FCA should follow their normal procedures. For the FCA, this includes complying with relevant consultation requirements when developing guidance and making rules. Likewise, HMT will need to consult on any recommendations that entail legislative changes.

In implementing these recommendations HMT and the FCA should continue to take into account issues relevant to those with protected characteristics under the Equality Act 2010, including particular difficulties in relation to advice for consumers in vulnerable circumstances.

Recommendation	Owner	Indicative timing
Affordability		
Advice boundary: Consult on amending the definition of regulated advice under the existing Regulated Activities Order (RAO) so that regulated advice is based upon a personal recommendation, in line with the definition set out in MifID.	HMT	Implement in early 2017 (subject to consultation)*
Regulatory responsibilities associated with guidance: 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.	FCA	Consult on guidance by early 2017*
Streamlined advice: Develop a clear framework that gives firms the confidence to provide streamlined advice on simple consumer needs in a proportionate way. As part of this, new guidance should be produced 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.	FCA	Consult on guidance by early 2017*
Qualifications: Consult on modifying the time limits for employees to attain an appropriate qualification in the FCA's existing Training and Competence sourcebook (TC).	FCA	Consult in 2017*
Cross-subsidisation: Consult on guidance on the cross-subsidisation rules in relation to the interpretation of 'long term' and the flexibility allowed.	FCA	Consult in Q3/Q4 2016
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	HMT	Ongoing
Smarter Communications & Suitability Reports: Work together with the aim of bringing about improvements to suitability reports, reducing their length, where appropriate, and the time firms spend preparing them.	FCA and industry	Ongoing

Recommendation	Owner	Indicative timing
Advice Unit: Build on the success of Project Innovate and establish an Advice Unit to help firms develop their automated advice models.	FCA	Pilot to run from Autumn 2016
Portable fact finds: 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.	FCA	Consult on guidance early 2017*
Accessibility		
Employer concerns about regulatory liability: Develop and promote a new factsheet to set out what help employers and trustees can provide on financial matters without being subject to regulation.	FCA and The Pensions Regulator	Publish factsheet early 2017
Employer best practice: Work with employers to develop and promote a guide to the top ten ways to support employees' financial health.	Financial Advice Working Group	Publish guide early 2017
Taxation exemptions for employer-arranged financial advice: Explore ways to improve the existing £150 income tax and National Insurance exemption for employer-arranged advice on pensions.	HMT	Implementation Q2 2017
Pre-retirement advice tax break: 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.	HMT	Subject to consultation
Adviser charging: Take steps to ensure that firms and advisers are aware of the existing flexibility in the rules on adviser charging	FCA	Q3/Q4 2016
Pensions Dashboard: 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.	Industry and HMT	Technology to be available to consumers by 2019
Terminology: Publish a shortlist of potential 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.	Financial Advice Working Group	Shortlist to be published Q3/Q4 2016
Designing rules of thumb and nudges: Lead a task force to design and test a set of rules of thumb and nudges.	Financial Advice Working Group	Initial testing to be completed by Q1 2017

Recommendation	Owner	Indicative timing
Ongoing review and promotion of rules of thumb and nudges: 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.	HMT	Responsibility to be assigned to appropriate organisation Q1/Q2 2017
Liabilities and consumer redress		
FSCS funding: 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.	FCA	Consult Q4 2016
PII market: Following the review of FSCS funding, in light of evidence received as to the impact of the professional indemnity insurance (PII) market on FSCS funding, consider whether to undertake a review of the availability of PII cover for smaller advice firms.	FCA	Q3/Q4 2017
Ombudsman Best Practice roundtables: Consider undertaking regular 'Best Practice' roundtables with industry and trade bodies where both sides can discuss relevant issues such as evidence used when considering historic sales and suitability requirements.	Financial Ombudsman Service	Q3/Q4 2016 onwards
Ombudsman uphold rates: Publish additional data on Financial Ombudsman Service 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.	Financial Ombudsman Service	Publish after the Financial Ombudsman Service Data Review in 2017
Financial Ombudsman Service website area for advice firms: Consider whether to establish a more visible central area for firms on the Financial Ombudsman Service 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.	Financial Ombudsman Service	Establish in Summer 2016

Recommendation	Owner	Indicative timing
Expanding the ombudsman Independent Assessor report: The report of the Financial Ombudsman Service appointed Independent Assessor should be expanded to include a more in-depth analysis of cases they consider and identify potential areas for process improvement.	Financial Ombudsman Service	Expand report produced in 2017
Longstop review: 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.		
Implementation		
To support progress over the next 12 months, members of the FAMR Expert Advisory Panel should form a Financial Advice Working Group with members of the FCA Consumer, Practitioner, and Smaller Business Practitioner Panels.	FCA and HMT	Financial Advice Working Group to be formed Q2 2016
Develop advice market indicators to monitor the development of the advice market. These should be tracked on an annual basis and published on the FCA website.	FCA and HMT	Every 12 months from Q1 2017
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.	FCA and HMT	Report on progress Q1/Q2 2017. Review of FAMR outcomes in 2019.

* Timelines for these initiatives are dependent on MiFID timing, but the FCA and HMT should aim to implement measure in line with, if not before, MiFID II implementation. The provisions of MiFID II are currently expected to apply from January 2018. The detailed implementing measures for MiFID II have not yet been published.

6.2 Related initiatives

There are a number of changes being introduced by the UK Government, the EU, and the FCA, which will impact on the advice market, in particular pensions. In addition to the implementation of MiFID II, the work which FAMR is recommending will have to tie in closely with the following initiatives:

- **Insurance Distribution Directive (IDD):** this EU directive updates the Insurance Mediation Directive (IMD), and sets out a framework for regulating the distribution of insurance products (including insurance-based investment products). It includes requirements on: organisation and professional requirements; information requirements and conduct of business rules; and cross-selling and bundling. The IDD must be transposed by Member States by 2018.

- **Updates to FCA rules following pension reforms:** the FCA is reviewing rules affecting pensions and retirement income in the light of recent pension reforms. In October 2015 the FCA published a paper, which consulted on a number of issues, such as changes to the retirement risk warnings. The paper also invited discussion on other areas, such as whether commission should continue to be allowed for sales of annuities, and whether regulation could be amended to address the issue of insistent clients. The FCA intends to set out next steps in a Policy Statement in Q2 2016.

- **Secondary Annuities Market:** this is a UK Government initiative to create a secondary market in annuities. HMT published a response to the call for evidence on the secondary annuities market in December 2015, and the market will be launched in April 2017. The FCA is working with HMT to develop a consumer protection model for the market, including a financial advice requirement. The FCA intends to consult on these consumer protections in April 2016.

- **Retirement Outcomes Review:** this FCA review is a follow-up to the 2015 Retirement Income Market Study and will consider the impact of the pension reforms on competition and switching in the market. The FCA is developing its thinking on the scope of the review in light of the findings of FAMR, and anticipates that it will launch this work in Q2 2016.

- **Project Innovate – next steps:** the FCA is building on the initial success of Project Innovate by stepping up engagement with international regulators and actively engaging with large incumbent institutions. It has also introduced an end-to-end experience for innovative new market entrants. This means that businesses that have received initial support from the Hub will have their applications for authorisation handled by a specialised Project Innovate authorisation process. After authorisation they will be provided with dedicated supervisory support, normally for one year. This will deliver a seamless experience of regulatory processes for the businesses concerned, and minimise the risk of unnecessary delay.

- **Regulatory sandbox:** the FCA is launching a regulatory sandbox that aims to create a safe space for businesses to test out new, innovative financial products, services or business models in a live environment. This follows on from the FCA's November 2015 feasibility report. The Sandbox unit will open for testing proposals in spring 2016.

- **Regulatory barriers to innovation in digital and mobile solutions:** the FCA's Innovation Hub published a Feedback Statement in March 2016 outlining the steps the FCA is taking to address the issues raised in response to its Call for Input: Regulatory barriers to innovation in digital and mobile solutions. A number of respondents to the Call for Input also raised issues relating to financial advice, and this feedback has been taken into account in FAMR's analysis.

Annex A
Glossary of key terms

Basic advice	Basic advice (COBS 9.6) is a short, simple form of financial advice which uses pre-scripted questions to determine whether a range of stakeholder products will be suitable for a customer.
Execution-only[79]	A service consisting of the execution and/or reception and transmission of client orders relating to particular financial instruments at the client's initiative. The firm does not give any advice on investments or assess appropriateness.
Financial instrument	One of the financial instruments listed in Section C of Annex I of MiFID I and MiFID II.
Focused advice	Advice with a personal recommendation, focused at the request of the customer, to a specific need, designated investment, or certain assets[80].
General recommendation	Under MiFID I, a recommendation about a transaction in a particular financial instrument or a type of financial instrument which is issued exclusively through distribution channels or to the public.
Generic advice	Advice or information that does not relate to a particular investment or does not otherwise meet one of the characteristics of regulated advice.
Guidance	The provision of information, generic advice and/or a general recommendation supporting customers in making their own investment decisions which does not (in and of itself) involve a personal recommendation.
Full advice	Advice with a personal recommendation which considers the full range of a customer's needs, including debt and protection.
Investment advice	The MiFID investment service/activity of providing personal recommendations to a client, either upon the request of the client or at the initiative of the firm, in respect of one or more financial instruments.
MiFID I	The Markets in Financial Instruments Directive (Directive 2004/39/EC) and relevant implementing measures. MiFID I applied from 1 November 2007.

79 The FCA Glossary provides a technical description of execution-only sales. For the purposes of this table we have summarised the Glossary definition.

80 Simplified advice and focused advice are similar in that the advice process is focused on one or more specific needs. The key difference between focused and simplified advice is that the former involves the client stipulating the boundaries of the service they wish to receive, whereas with simplified advice the firm is setting out the boundaries of the service it provides.

MiFID II	The Markets in Financial Instruments Directive (Directive 2014/65/EU). MiFID II was generally scheduled to apply from 3 January 2017 but the commission has proposed legislation to delay its application by a year.
Personal recommendation[81]	A recommendation relating to taking certain steps in respect of a particular investment, made to a person in their capacity as an investor or potential investor (or their agent), which is presented as suitable based on a consideration of the person's circumstances.
Regulated advice (i.e. the activity of advising on investments under article 53 of the RAO)	Advice relating to a particular investment given to a person in their capacity as an investor or potential investor (or their agent) and relates to the merits of them buying, selling, subscribing for, or underwriting (or exercising rights to acquire, dispose of, or underwrite) the investment.
Simplified advice	Advice with a personal recommendation that is limited to one or more of a customer's specific needs and does not involve analysis of the customer's circumstances that are not directly relevant to those needs. It is the firm that sets out the boundaries of the service it provides.
Streamlined advice	A term used to collectively describe advisory services (such as focused and simplified advice) that provide a personal recommendation that is limited to one or more of a customer's specific needs. The service does not involve analysis of the customer's circumstances that are not directly relevant to those needs.
Suitability	The test in MiFID I and COBS 9 that a firm must apply before making a personal recommendation in relation to a designated investment to a customer. The test also applies to transactions entered into on behalf of a client by a firm that manages investments.

81 The FCA Glossary provides a technical description of a personal recommendation. For the purposes of this table we have summarised the Glossary definition.

Annex B
The Expert Advisory Panel

The FAMR expert advisory panel was an independent panel chaired by Nick Prettejohn, Chairman of Scottish Widows. The Panel was independent from the main Review and did not carry out responsibilities on behalf of HM Treasury or the Financial Conduct Authority. It had its own secretariat, separate from that of the main Review.

The membership of the sixteen member expert panel was structured so that it covered a cross-section of senior industry leaders representing the supply side (firms) and the demand side (customers) of the financial advice market. Panel members were acting in a personal capacity rather than representing the views of their firm/organisation and were expected to contribute with a view to furthering the interests of the financial advice market as a whole. They also needed to be available to participate in expert panel meetings. Details of the panel members are set out below.

Chair: Nick Prettejohn

- Alex Neill (Which?)
- Andy Briggs (Aviva)
- Ashok Vaswani (Barclays)
- Chris Rhodes (Nationwide)
- Gill Cardy (Defaqto)
- Gillian Guy (Citizens Advice)
- Ian Gorham (Hargreaves Lansdown)
- Jackie Noakes (Legal & General)
- Nick Hungerford (Nutmeg)
- Nicky McCabe (Fidelity)
- Richard Freeman (Intrinsic)
- Richard Rowney (LV=)
- Dr. Robin Keyte (FCA Small Business Practitioner Panel)
- Sue Lewis (Financial Services Consumer Panel)
- Tom Wright (AgeUK)

Further detail on this panel is contained within the published terms of reference.

https://www.fca.org.uk/static/documents/famr-expert-advisory-panel-terms-of-reference.pdf

Annex C
List of non-confidential respondents

2plan wealth management Ltd	Association of Business Recovery Professionals	BT Pension Scheme Management Limited	Citygate Consulting Limited
Active Wealth Ltd	Association of Investment Companies	Building Societies Association	Citywide Financial Partners Limited
Abi Stidworthy	Association of Member Nominated Trustees Ltd	Caleb Roberts Financial Management Ltd	Clifton Compliance Services Ltd
Advantage IFA Ltd	Aviva	Caledonian Financial Management Ltd	Close Brothers Asset Management
Aegon	AXA Wealth	Capgemini Consulting	Colin Butterworth
Age UK	B&CE	Carolyn Callanan	Combined financial Strategies ltd
Alison D M Segerman	Barra Gorman	Cavendish Corporate Finance LLP	Compliance and Training Solutions Ltd
Altus	BBA Enterprises Ltd	Cervello Financial Planning.	CBI
Amar Financial Services	Berkeley Burke Group	Chadney Bulgin LLP	Corvinus Capital Ltd
AMI	BlackRock	Chapters Financial Limited	Council of Mortgage Lenders
Andrew Tyrtania	Blevins Franks Financial Management	Chartered Banker Institute	Cranbourne Financial LLP
Anne Rodger	Blue Scapes	Chartered Financial Management (UK) Ltd	Culley Financial Services Ltd
Apex CB Financial Planning Ltd	BPH Wealth Management LLP	Chartered Institute for Securities & Investment	D Shearer
APFA	Brewin Dolphin	Chattertons	David Severn
Aspire Online	Brighton Financial Ltd	Chevening Financial Ltd	Davies Financial Limited
Association of British Credit Unions Ltd	Broad Wealth Management Ltd	Christians Against Poverty's (CAP)	Dawn Slater Wealth Management
Association of British Insurers (ABI)	Browning Financial Planning Ltd	Citizens Advice	Dean Robertson

Dexter Perrott	Forward Plan IFA Ltd	I-FACT Services Limited	Joseph Barron Anthony
Distribution Technology Ltd	GH Financial Consultancy Ltd	Informed Choice Ltd	Joslin Rhodes Lifestyle Financial Planning
Douglas Baillie Ltd	Gibbs Denley Financial Services Ltd	Institute and Faculty of Actuaries	Julian Knight
EA Change Group	Gillian Rice	Intelligent Pensions	Just Retirement
Edward Argar	Gresham Financial Planning LLP	International Financial Data Services (Uk) Ltd	Katy Master
Engage Insight	HA7 Consulting	International Longevity Centre–UK	Keith Robertson
Entrust Financial Planners Ltd	Halebarns Financial Planning Ltd	Investec Wealth & Investment	Key Retirement
Essential IFA	Hall Financial Planning LLP	Investment & Life Assurance Group	Killik & Co
Esteem Money Ltd	Hartley Millar	Ipswich Building Society	KPMG
Expert Advisory Panel	Herbert & Webster	Iress	Later Life Academy
Ferret Information Systems	Highclere Financial Services	James Hay Partnership	LeBeauVisage and Protection Review
Financial Foresight (NI) Ltd	Hymans Robertson	John Crick	Legal & General Group Plc
Financial Inclusion Centre	ICAEW	John Lord	Legal Action Group
Financial Services Consumer Panel	ICAS Pensions Committee	Jonathan Davis Wealth Management LTD	Lemonade LLP

Leslie Cupitt	Money Advice Trust	Park View FP Ltd	Pump Court
Libertatem	MoneySuperMarket	Parmenion	Regulatory Legal Solicitors
LifeSearch	Morgan Financial Ltd	Partnership Assurance	Reynolds Porter Chamberlain LLP
Lighthouse Financial Advice	Morgans Ltd	PCM Asset Management Ltd	Richmond House Group
Lloyds Banking Group	Mr & Mrs Richardson	Penguin	Rob Coote
London Stock Exchange Group plc	MRM	Pensions and Lifetime Savings Association	Roger Morton
Macbeth Financial Services Ltd	Mrs A Owen	Pensions Policy Institute	Rowley Goodall Ltd
Macmillan Cancer Support	MyBnk	Personal Finance Society	Royal Mail
Markit	Neil Thompson	Peter Nellist	Saga Investment Services
Mercer Limited	NEST	Polygon Financial Ltd	Santander UK plc
MetLife	NOW: Pensions	Practitioner Panel & Smaller Business Practitioner Panel	Sesame Bankhall Group
Michael Johnson	Nucleus Financial Group	Profile Financial Solutions	Shelter
Michael Northen	Nutmeg	Prosperity Wealth Management Limited	Simplified Money Ltd
Mike Fenwick	Openwork Limited	Protected	SimplyBiz
Moerael Life Financial Planning	Orchard House IFAs	Protection & Investment Ltd	SK Financial
Money Advice Service	Ovation Finance Ltd	Prudential PLC	Social Market Foundation

South West Financial Planning	Taurus Global Financial Advisers Ltd	The Ross Partnership LLP	Waghorn
Southam Financial Planning Ltd	Tax Assist	The Society of Pension Professionals	Wealth at Work Limited
SRI Services	Tenet Group Limited	threesixty services LLP	Wealth Management Association
St. James's Place	The Chartered Insurance Institute (CII)	Tim May	Which?
Standard Life	The Consumer Finance Association	TISA	Whiting & Partners Wealth Management Ltd
StepChange Debt Charity	The Equity Release Council	Tom Orchard (Annetts & Orchard)	William Burrows
Strategic Investment Solutions Ltd	The Investment Association	Towry Limited	Willis Owen Limited
Strategic Solutions Chartered Financial Planners	The Leaders' Summit Group (LSG)	True Potential PUFin	Wishart Wealth Management Ltd
Strategic Solutions Financial Services	The Medical Partnership	True Potential Wealth Management	Worldwide Financial Planning Ltd
Susan Hill Financial Planning	The Minster Partnership llp	UK Sustainable Investment and Finance Association	Zurich Insurance Group
Sussex Independent Financial Advisers Ltd	The Money Charity	UKPG	
Swallow Financial Management LLP	The Pensions Portal	Unum	
Swiss Re	The Pensions Regulator	Virgin Money	

Annex D
Data from the Financial Ombudsman Service

Complaints against financial advisers where the date the Financial Ombudsman Service accepted the case is recorded as being over 15 years since the recorded incident date, broken down by product type

This paper has been prepared in response to a request from the FAMR Secretariat for a breakdown of the numbers of complaints which the Financial Ombudsman Service has received which might be barred if a fifteen year longstop were in place, broken down to show the number of complaints against financial advisers by product type. It also shows the total number of complaints against financial advisers for the same period, by product.

Please note that the longstop figures used in this paper are a rough estimation based on the time gap between the date we (the Financial Ombudsman Service) have recorded on our system as the date of the event complained about, and the date the complaint was 'converted' – or formally taken on by our service. In reality, the longstop would be halted once the consumer made a complaint to the business. Furthermore, it is worth noting that the date the event occurred is entered manually, often based on the consumer's recollections, and so there will be a degree of human error. The numbers of cases given here will also include any cases which we subsequently decided were out of time based on the 3 and 6 year rules (and the six months from final response letter rule) as set out in DISP 2.8.2.

While we have provided the product breakdown for financial adviser cases only, in line with the request, we have also considered the data across all firm types where generally the mass claims issues (payment protection insurance, packaged bank accounts and mortgage endowments) predominate. We have included a comparison with the banks for each year to help to put the figures by way of comparison with the wider financial services sector.

'Uphold rate' refers to the number of complaints by consumers in each category that were upheld by the Financial Ombudsman Service.

Financial year 2014-15

Product	No. of cases where more than fifteen years between recorded incident and complaint	Uphold rate	Total number of financial adviser cases	Uphold rate
Mortgage Endowments	104	23%	134	25%
Occupational Pension Transfers/Opt Out	32	56%	71	63%
Personal Pensions	27	30%	146	52%
Whole-of-Life	24	33%	56	38%
FSAVC – Free Standing Additional Voluntary Contributions	14	64%	15	60%
Term Assurance	10	10%	151	13%
Endowment Savings Plans (Not Child)	7	14%	10	10%
SERPS – State Earnings Related Pensions Schemes	7	14%	9	11%
Unit-Linked Investment Bonds	7	14%	144	63%
With-Profits Bonds	4	0%	23	35%
Portfolio Management	3	0%	294	63%
House Mortgages	2	0%	159	19%
Income Drawdowns	2	0%	69	51%
Income Protection/Permanent Health Insurance	2	0%	37	22%
Pension Mortgages	2	50%	3	67%
Annuities	1	100%	68	25%
Back to Back Bonds/ Endowments	1	100%	3	67%
Critical Illness Insurance	1	0%	26	4%
Executorships/Trusteeships	1	100%	5	60%
ISA – Individual Savings Accounts (Not Cash)	1	100%	109	51%
Long Term Care Insurance	1	100%	1	100%
Payment Protection Insurance	1	0%	426	14%

Product	No. of cases where more than fifteen years between recorded incident and complaint	Uphold rate	Total number of financial adviser cases	Uphold rate
Buildings Insurance	0	n/a	10	40%
Business Protection Insurance	0	n/a	1	100%
Car/Motorcycle Insurance	0	n/a	2	100%
Cash ISA – Individual Savings Account	0	n/a	2	100%
Children's Savings Plans	0	n/a	1	0%
Commercial Legal Expenses Insurance	0	n/a	1	0%
Commercial Property Insurance	0	n/a	3	33%
Commercial Vehicle Insurance	0	n/a	1	0%
Contents Insurance	0	n/a	5	0%
Corporate Bonds	0	n/a	1	0%
Credit Broking	0	n/a	1	0%
Credit Card Accounts	0	n/a	3	33%
Current Accounts	0	n/a	9	22%
Debit/Cash Cards	0	n/a	1	0%
Deposit/Savings Accounts	0	n/a	2	50%
Derivatives	0	n/a	11	18%
Direct Debits/Standing Orders	0	n/a	1	0%
Enterprise Investment Schemes	0	n/a	8	38%
EPP – Executive Pension Plans	0	n/a	3	67%
Film Partnerships	0	n/a	47	2%
Foreign Currency	0	n/a	1	0%
GAP Insurance – Guaranteed Asset Protection	0	n/a	3	33%
Guaranteed Bonds	0	n/a	10	40%
Hire Purchase	0	n/a	2	100%

Product	No. of cases where more than fifteen years between recorded incident and complaint	Uphold rate	Total number of financial adviser cases	Uphold rate
Interbank Transfers	0	n/a	1	100%
Interest Rate Hedge	0	n/a	2	0%
Investment Trusts	0	n/a	6	67%
Legal Expenses Insurance	0	n/a	1	0%
Long Term Care Bonds	0	n/a	1	100%
Marine/Small Craft Insurance	0	n/a	1	0%
OEIC – Open Ended Investment Companies	0	n/a	30	73%
Overdrafts and Loans	0	n/a	4	25%
PEP – Personal Equity Plans	0	n/a	3	33%
Private Medical/Dental Insurance	0	n/a	5	20%
SCARPs – Structured Capital at Risk Products	0	n/a	13	85%
Secured Loans	0	n/a	1	100%
Share Dealings	0	n/a	96	24%
SIPP – Self Invested Personal Pensions	0	n/a	213	71%
Spread Betting	0	n/a	3	33%
SSAS – Small Self Administered Schemes	0	n/a	9	56%
Traded Endowments	0	n/a	2	100%
Travel Insurance	0	n/a	1	0%
Unit Trusts	0	n/a	12	58%
X – Not Covered	0	n/a	1	0%

- The largest area of complaints was about mortgage endowments (40.9%), followed by pensions[82] (26.8%).

82 This is the combined total of: Occupational Pension Transfers/Opt Out, Pension Mortgages, Personal Pensions, SERPS – State Earnings Related Pensions Schemes.

- For the same period, the largest area of complaints received from banks where there had been more than fifteen years between the recorded incident and complaint was about payment protection insurance (92.1%) followed by packaged bank accounts (2.1%).

Financial year 2013-14

Product	No. of cases where more than fifteen years between recorded incident and complaint	Uphold rate	Total number of cases	Uphold rate
Mortgage Endowments	106	22%	169	25%
Whole-of-Life	25	36%	59	37%
Term Assurance	16	0%	166	9%
Occupational Pension Transfers/Opt Out	13	69%	48	67%
Personal Pensions	11	45%	198	56%
SERPS – State Earnings Related Pensions Schemes	10	10%	12	17%
Income Protection/Permanent Health Insurance	8	25%	56	20%
Endowment Savings Plans (Not Child)	4	25%	12	42%
FSAVC – Free Standing Additional Voluntary Contributions	4	50%	5	60%
Pension Mortgages	4	75%	6	67%
With-Profits Bonds	4	25%	34	47%
PEP – Personal Equity Plans	3	67%	7	43%
Portfolio Management	3	67%	272	68%
SIPP – Self Invested Personal Pensions	2	50%	184	71%
Unit-Linked Investment Bonds	2	0%	208	58%
Annuities	1	100%	65	34%
Children's Savings Plans	1	0%	5	40%
Critical Illness Insurance	1	100%	46	11%
EPP – Executive Pension Plans	1	0%	9	56%
Executorships/Trusteeships	1	0%	3	33%

Product	No. of cases where more than fifteen years between recorded incident and complaint	Uphold rate	Total number of cases	Uphold rate
Guaranteed Bonds	1	0%	18	22%
Income Drawdowns	1	0%	62	55%
Long Term Care Bonds	1	0%	3	33%
Payment Protection Insurance	1	0%	183	18%
Back to Back Bonds/ Endowments	0	n/a	4	25%
Buildings Insurance	0	n/a	18	22%
Business Protection Insurance	0	n/a	1	0%
Car/Motorcycle Insurance	0	n/a	1	0%
Cash ISA – Individual Savings Account	0	n/a	2	0%
Commercial Legal Expenses Insurance	0	n/a	1	0%
Commercial Property Insurance	0	n/a	4	0%
Commercial Vehicle Insurance	0	n/a	1	0%
Contents Insurance	0	n/a	11	27%
Corporate Bonds	0	n/a	2	100%
Credit Broking	0	n/a	1	0%
Credit Card Accounts	0	n/a	5	40%
Current Accounts	0	n/a	13	46%
Deposit/Savings Accounts	0	n/a	5	60%
Derivatives	0	n/a	3	0%
Enterprise Investment Schemes	0	n/a	7	57%
Film Partnerships	0	n/a	17	12%
Foreign Currency	0	n/a	1	0%
GAP Insurance – Guaranteed Asset Protection	0	n/a	1	100%
Hire Purchase	0	n/a	1	0%

Product	No. of cases where more than fifteen years between recorded incident and complaint	Uphold rate	Total number of cases	Uphold rate
House Mortgages	0	n/a	207	18%
Investment Trusts	0	n/a	15	67%
ISA – Individual Savings Accounts (Not Cash)	0	n/a	113	43%
Legal Expenses Insurance	0	n/a	3	0%
Long Term Care Insurance	0	n/a	3	0%
OEIC – Open Ended Investment Companies	0	n/a	31	52%
Overdrafts and Loans	0	n/a	1	0%
Private Medical/Dental Insurance	0	n/a	6	17%
SCARPs – Structured Capital at Risk Products	0	n/a	69	90%
Share Dealings	0	n/a	112	34%
Spread Betting	0	n/a	14	21%
SSAS – Small Self Administered Schemes	0	n/a	9	67%
Traded Endowments	0	n/a	5	80%
Unit Trusts	0	n/a	24	58%
Warranties	0	n/a	1	0%
X – Not Covered		n/a	1	0%

- The largest area of complaints was about mortgage endowments (47.3%), followed by pensions[83] (17.8%).
- For the same period, the largest area of complaints received from banks where there had been more than fifteen years between the recorded incident and complaint was about payment protection insurance (93.2%) followed by packaged bank accounts (1.8%).

83 This is the combined total of: Occupational Pension Transfers/Opt Out, Pension Mortgages, Personal Pensions, SERPS – State Earnings Related Pensions Schemes, SIPP – Self Invested Personal Pensions.

Financial year 2012-13

Product	No. of cases where more than fifteen years between recorded incident and complaint	Uphold rate	Total number of cases	Uphold rate
Mortgage Endowments	99	27%	176	26%
Occupational Pension Transfers/Opt Out	16	69%	69	67%
Personal Pensions	12	25%	165	48%
Whole-of-Life	11	36%	56	30%
SERPS – State Earnings Related Pensions Schemes	10	0%	14	0%
Endowment Savings Plans (Not Child)	8	38%	10	30%
FSAVC – Free Standing Additional Voluntary Contributions	3	67%	6	67%
PEP – Personal Equity Plans	3	0%	8	13%
Term Assurance	3	0%	97	14%
Unit-Linked Investment Bonds	2	50%	204	57%
Income Protection/Permanent Health Insurance	1	0%	31	13%
Investment Trusts	1	100%	10	40%
With-Profits Bonds	1	100%	50	32%
X – Not Covered	1	0%	3	33%
Annuities	0	n/a	49	41%
Back to Back Bonds/ Endowments	0	n/a	5	20%
Buildings Insurance	0	n/a	11	64%
Car/Motorcycle Insurance	0	n/a	4	25%
Cheques/Drafts	0	n/a	1	100%
Children's Savings Plans	0	n/a	5	0%
Commercial Property Insurance	0	n/a	3	33%
Contents Insurance	0	n/a	4	25%
Corporate Bonds	0	n/a	2	0%
Credit Broking	0	n/a	1	0%

Product	No. of cases where more than fifteen years between recorded incident and complaint	Uphold rate	Total number of cases	Uphold rate
Credit Card Accounts	0	n/a	1	100%
Critical Illness Insurance	0	n/a	36	17%
Current Accounts	0	n/a	5	40%
Deposit/Savings Accounts	0	n/a	2	0%
Derivatives	0	n/a	11	27%
Enterprise Investment Schemes	0	n/a	3	100%
EPP – Executive Pension Plans	0	n/a	1	0%
Executorships/Trusteeships	0	n/a	1	100%
Film Partnerships	0	n/a	7	100%
GAP Insurance – Guaranteed Asset Protection	0	n/a	1	0%
Guaranteed Bonds	0	n/a	15	53%
Home Income Plans	0	n/a	1	0%
Home Purchase Plans	0	n/a	1	0%
House Mortgages	0	n/a	260	12%
Income Drawdowns	0	n/a	37	65%
Interbank Transfers	0	n/a	2	50%
ISA – Individual Savings Accounts (Not Cash)	0	n/a	100	40%
Long Term Care Bonds	0	n/a	3	33%
Long Term Care Insurance	0	n/a	3	0%
Marine/Small Craft Insurance	0	n/a	1	100%
Non-Regulated Guaranteed Bonds	0	n/a	2	0%
OEIC – Open Ended Investment Companies	0	n/a	32	75%
Overdrafts and Loans	0	n/a	4	75%
Payment Protection Insurance	0	n/a	47	38%
Pension Mortgages	0	n/a	1	100%
Personal Accident Insurance	0	n/a	3	0%

Product	No. of cases where more than fifteen years between recorded incident and complaint	Uphold rate	Total number of cases	Uphold rate
Point of Sale Loans	0	n/a	1	0%
Portfolio Management	0	n/a	187	69%
Private Medical/Dental Insurance	0	n/a	4	25%
SCARPs – Structured Capital at Risk Products	0	n/a	25	68%
Share Dealings	0	n/a	69	52%
SIPP – Self Invested Personal Pensions	0	n/a	143	69%
Specialist Insurance	0	n/a	2	0%
Spread Betting	0	n/a	12	0%
SSAS – Small Self Administered Schemes	0	n/a	14	57%
Traded Endowments	0	n/a	21	62%
Travel Insurance	0	n/a	2	0%
Unit Trusts	0	n/a	25	48%
Warranties	0	n/a	2	0%

- The largest area of complaints was about mortgage endowments (57.9%), followed by pensions[84] (22.2%).
- For the same period, the largest area of complaints received from banks where there had been more than fifteen years between the recorded incident and complaint was about payment protection insurance (78.6%) followed by mortgage endowments (4.7%).

84 This is the combined total of: Occupational Pension Transfers/Opt Out, Personal Pensions, SERPS – State Earnings Related Pensions Schemes.

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