

Gary Brown
Advice and Distribution team
Policy, Risk and Research Division
The Financial Conduct Authority
25 The North Colonnade
London E14 5HS

10th October 2014

Dear Gary,

PRACTITIONER PANEL RESPONSE TO GC14/3: RETAIL INVESTMENT ADVICE

The Practitioner Panel welcomes the opportunity to respond to Guidance Consultation GC14/3 on investment advice. We have previously responded to the Project Innovate call for evidence, focusing on both the disjoint between what customers say they want and need to be told and the regulatory principles, and the interaction between UK and EU rules. We continue these themes in this response.

We are encouraged that the FCA is considering retail investment advice and clarifying the boundaries since there continue to be uncertainties among firms as to what the regulator's expectations are. The real issue, as the FCA acknowledges, is that there are significant challenges in translating rules which were largely designed with a face to face relationship in mind to an online, technology-driven environment. The fact that it requires a document of over 50 pages to explain the existing requirements clearly illustrates that challenge, for firms and, more importantly, for their customers. It suggests that a more fundamental rethink is needed about how the distribution environment is likely to develop and how regulation of it needs to adapt. That needs to take account of the political drive, at both UK and EU level, to encourage economic growth and so needs to be put in the context of how the structures and rules can encourage individuals to save and invest.

The Panel has undertaken research into the initial impacts of the RDR which will be completed shortly. Although the research identifies a number of positive outcomes, it does conclude that increased transparency is not giving consumers clarity on adviser status. In particular, defining adviser status in terms of product sourcing is not considered helpful when one of the aims of the RDR was to break the link between product purchase and advice.

We note that the FCA is undertaking parallel work with firms on disclosure to explore how to deliver better, more useful, product information. A joined up approach to these two strands of work, such as the use of behavioural insights to improve both the effectiveness of the information supplied and the way it is used, would help to improve outcomes for both firms and their customers.

We broadly agree with many of the intentions outlined in the paper, particularly that there are distribution models which sit between execution-only and full advice. However, we have some concerns that the consultation does not go far enough to establish clarity in certain areas and needs more detail. In particular:

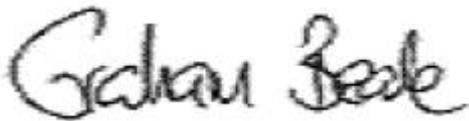
- we do not see that the rationale in the Guidance Consultation is sufficient for firms to determine when a personal recommendation is not being made but the advice is still regulated;

- further detail is required regarding communications to existing customers as part of their ongoing service commitments, particularly concerning the removal and replacement of an under-performing fund from a firm's panel;
- further clarity is required on the additional actions that need to be undertaken by a firm where the customer is transacting on an execution-only basis, but this is considered as regulated advice;
- a more detailed understanding is required of the obligations of a firm where another need has been identified outside the scope of the Limited / Focused Advice service agreed with the customer.

We also have concerns that these proposals from the FCA introduce a new pillar of advice that will result in the UK domestic regime being broader than MiFID, which needs to be more thoroughly explored.

Whilst we appreciate the FCA's attempt to open up debate on the variety of advice models which could be developed, this debate has not yet cleared up confusion around the existing concepts of what constitutes advice. With the wide interpretation of regulated advice set out in the paper and lack of direction on what "context" or "circumstances" apply, we do not believe that the draft Guidance is fully developed at this time. A fuller exploration of the points made above would therefore be welcome.

Yours sincerely,

A handwritten signature in black ink that reads "Graham Beale". The signature is written in a cursive, slightly slanted style.

Graham Beale,
Chairman, FCA Practitioner Panel