Briefing

FinTech

FAMR – a new approach to financial advice?

Last year, a growing concern about the cost and accessibility of financial advice led the Treasury to set up the Financial Advice Market Review (**FAMR**). A Call for Input was subsequently launched seeking recommendations from the industry. Now, the FCA and the Treasury have released the final report which contains a number of recommendations for improving the financial advice market.

FAMR is a joint review which has been run by a team drawn jointly from staff at the FCA and Treasury and supported by an expert advisory panel of senior figures representing financial service providers, financial advisors and consumer representatives. This panel was given five key objectives for their review:

- To examine the 'advice gap' between those who can and cannot afford financial advice.
- To identify any regulatory or other barriers faced by firms giving financial advice.
- To increase clarity in regulations and encourage innovation.
- To identify opportunities and technologies that can provide cost efficient and accessible financial advice.
- To encourage healthy demand for financial advice and to identify any barriers deterring people from seeking advice.

Based on its review and the 268 responses to the Call for Input, the report gives 28 recommendations for the industry, across three different chapters on "affordability", "accessibility" and "liabilities and consumer protection."

Some of the key recommendations in the Final Report include:

Affordability

- The regulations should be clear as to what constitutes regulated financial advice as opposed to more general, limited advice. The current lack of clarity is identified as causing firms to limit their offering of streamlined advice services, which ultimately increases the chances that consumers will be left unnecessarily paying for full regulated advice.
- There should be a clear regulatory framework which gives firms the comfort and freedom to develop new technologies that are able to offer lower-cost advice services where consumers need simplified advice.
- The FCA should consult on new guidance to support firms offering services that help consumers make their own investment decisions without a personal recommendation - including where such services involve the communication of guidance to consumers (such as on the benefits of diversification, or to inform the consumer of their remaining ISA allowance).

Accessibility

- By recognising the importance of employers as a key point of contact for consumers seeking financial guidance, the FCA and The Pensions Regulator should assist employers to find ways of offering financial help to their employees, including by developing and promoting factsheets setting out the limits of an employer's ability to offer advice. In addition, the Financial Advice Working Group should look to work with employers in the creation of a guide setting out the best ways to support employees' financial health.
- The FCA should take steps to help ensure that firms and advisers are aware of the existing flexibility in the rules on adviser charging – especially around the availability of instalment-based payments for adviser charging.
- Consumers should be encouraged to engage with their finances and to take appropriate financial decisions. To this end the Financial Advice Working Group should lead a task force to design and test a set of "rules of thumb" (i.e. simple principles which are generally reliable in the absence of specific advice, such as - younger people can afford to take more risk than older people) and "nudges" (i.e. a simple and subtle prompt or message designed to positively influence and promote decision-making at appropriate life events).

Liabilities and consumer protection

- In response to feedback from firms regarding the 'unpredictable' levels of the annual Financial Services Compensation Scheme (**FSCS**) levy that they are expected to pay (and which are currently based on the firm's annual eligible income and the amount of FSCS compensation accrued in their allocated funding class) the FCA should consider risk-based levies when carrying out the 2016 FSCS Funding Review. This would give firms greater certainty of the costs for providing financial advice within their business models and would promote the provision of affordable advice.

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- In the face of potential indefinite liability for advice given by a firm (a complainant has six years to bring a complaint to the Financial Ombudsman Service or, where the complainant only realised subsequently that there was a problem, three years from the time the complainant realised there was a problem), the FAMR panel considered the possibility of introducing a “variable longstop” which would time-bar complaints after the term of the product ended. Ultimately, however, the FAMR recommends that the FCA should not introduce a longstop limitation in order to give consumers the confidence to obtain advice for long-term products.

The FAMR panel believes that reform can only occur through a ‘multi-faceted approach’ from the FCA, government, employers, service providers and consumers and its recommendations are, therefore, directed at everyone involved in the industry.

Going forward, the Financial Advice Working Group, incorporating panels from members of the FAMR panel, the FCA and small business practitioners, will be tasked with supporting improvements to the industry over the next 12 months. The report has also called on the FCA and the Treasury to jointly report on progress in 12 months and to review the outcomes arising from FAMR in 2019.

We will continue to monitor this area and look forward to any further developments arising from this report.

If you have any questions or comments on FAMR please contact a member of the FinTech team or your usual Burges Salmon contact.

Contact:

Adrian Shedden
Senior Associate

+44 (0) 117 307 6813
adrian.shedden@burges-salmon.com

Gareth Malna
Solicitor

+44 (0) 117 902 2799
gareth.malna@burges-salmon.com

Alex Gillespie
Trainee Solicitor

+44 (0) 117 307 6846
alex.gillespie@burges-salmon.com

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