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Interim report of the Thoresen Review of Generic Financial Advice

1. I offer a few comments on the interim report. Many consumers have fairly basic financial needs centred around budgeting, protection, savings and pensions and need advice and a prompt to action from a trusted source. A well designed GFA service should provide what many consumers need. A successful GFA service should help to reduce public expenditure and increase private savings and investment and so it makes sense to fund a GFA service 50/50 by government and the financial services industry.
2. My main comments relate to the boundary between GFA and financial advice which is regulated by the Financial Services Authority (FSA). Annex 4 to the interim report seems principally concerned to address what GFA may and may not do in order to avoid being caught by financial services or consumer credit legislation. That simply does not go far enough. If the GFA is effective in prompting a consumer to take action that will mean the consumer will then approach a regulated adviser. The Review cannot simply leave it to the FSA to work out what a regulated firm should do when a consumer presents him or herself. The Review needs to understand and agree with the FSA what it is a consumer should take away from the GFA and how that output is then to be treated by the regulated firm, and where the lines of responsibility rest. The way in which a regulated firm deals with the output which a consumer brings from the GFA has the capacity either to enhance or to devalue the view which that consumer takes of the GFA service.
3. Although the GFA will provide help and information of a generic nature it needs to be sufficiently specific to an individual to provide an incentive for that person to act on what they have been told. That suggests that even if it is at a very basic level the GFA would need to take some key details from the consumer about personal circumstances, income and outgoings, and assets and liabilities. I suggest such details should be taken even when the consumer presents the GFA with a specific need - "I want a pension" - as the consumer may not have a proper understanding of their real needs. If the GFA takes some of the details I describe then that is getting quite close to being the skeleton of a "fact find" as used in regulated advice. There would be merit in the Review agreeing with the financial service and consumer credit regulators what should be the scope and depth of the questions to be asked by the GFA. Ideally, all those providing a GFA service should use a standard form.
4. I am assuming that a consumer who has consulted a GFA would be provided with a print-out (or other record) of the personal and financial details that have been recorded and the generic advice or information which the GFA has provided in the light of the consumer's circumstances. A consumer who then decides to take action will no doubt take to the regulated firm a copy of anything provided by the GFA. The output from the GFA is starting to look like a "portable

fact find". This raises quite a number of issues, among which are:

a) if the output from the GFA is sufficiently comprehensive and of sufficient depth would the FSA envisage any circumstances where it would regard it as fair treatment for a product provider to treat the GFA output as a "prescription" which it could fill, rather than insisting that the consumer go through a regulated adviser first?

b) if the consumer does go to a regulated adviser to what extent will the FSA be expecting the fair treatment of consumers to necessitate the adviser repeating the whole of the fact finding process? The adviser should no doubt satisfy itself that the information obtained by the GFA is of sufficient quality on which to base a specific recommendation, and to resolve any ambiguities or gaps. There is a risk, however, that in the absence of any comfort from the FSA or the FOS that the adviser will consider it necessary to repeat the whole fact finding process itself and that could be counterproductive in terms of engaging the customer.

c) what will be the "sell by" date on information obtained by the GFA? Will the GFA warn the consumer that if he or she has not approached a regulated adviser by that "sell by" date the adviser will have no option but to repeat the fact finding process?

d) what mechanism is envisaged when a regulated firm reaches the conclusion that the generic advice given by the GFA is wrong and that some other course of action should be pursued by the consumer? Will the FSA expect advisers to resolve the difference of view with the GFA? Will there be reporting requirements on advisers such that they need to let the FSA know the number and nature of cases where the firm's view differs from that of the GFA? Will advisers be expected by the FSA to explain in a suitability letter why the adviser disagrees with the GFA view? How will the GFA itself get feedback about cases where there is a disagreement so that it can learn from those cases? Has the Review envisaged that the GFA might be asked by the consumer to "mediate" (consumer initially told by GFA to do one thing, regulated firm then says the GFA is wrong and the consumer should do something else, consumer now confused revisits GFA to ask which recommendation is right.) The difficulty for the GFA here is that when the consumer revisits he or she will be bringing back a specific recommendation from the regulated firm. The GFA will not be able to express a view on that specific recommendation without itself undertaking a regulated activity for which it would need authorisation, even if the GFA is of the view that the advice of the regulated firm is patently wrong. Does the GFA need a small group of regulated advisers who can adjudicate on cases like this?

e) regulated firms and their PI insurers are going to want clarity over responsibilities when things go wrong. A regulated firm may act with all due skill, care and diligence and conclude that the information obtained by the GFA is sufficient to justify the generic recommendation and the firm's own specific recommendation. What if, for some unforeseen reason, the recommendation is wrong? Is the regulated firm solely liable?

5. A consumer who has visited a GFA and wants to take action is going to ask for information about where he or she can get regulated advice. Whatever the outcome of the FSA's current Retail Distribution Review it seems certain that

there will continue to be a range of different services on offer from regulated firms. The GFA needs to be very careful not to promote or to disparage any particular form of service and it probably needs to agree with the FSA how the different services on offer should be presented. The Review also needs to be alert to the risk that there could be scope for some abuse in referrals. That is, it is possible that a regulated firm might offer some cash or other inducements to those operating a GFA service to get warm leads directed to the firm. How is the Review going to guard against regulated firms offering such inducements and those operating the GFA from accepting them?

6. Finally, I have a small comment relating to awareness measures. Although I agree that some effort should be made to make use of "trusted intermediaries" I think that the Review needs to understand that traditional means of communication may be of limited effectiveness. Based on my own experience over the past two years of GP and hospital waiting areas I offer the following observations:

- a) very few patients look at information which is on display, less than 5% in my estimation;
- b) there is just too much information vying for attention - information about medical conditions, support groups, volunteering, transport, charities - so there is a risk that information about GFA could well get overlooked;
- c) even well managed premises can have difficulty ensuring that information on display is kept tidy and that it is still valid (I have found plenty of leaflets about health services still on display but which have long been overtaken by events).

A more promising means of communication would be that in one NHS reception area with which I am acquainted where there is a television to keep those waiting entertained. This I have noticed does keep the attention of most of those patients waiting. Similarly, anyone who has shopped at Tesco will be familiar with the TV screen placed at the checkouts and which also seem to grab the attention of customers. The GFA could therefore think about well placed advertising/ public information through such channels.