

Dear Madam or Sir

This paper along with Annex 4 are most interesting contributions to a difficult debate. It is impossible to disagree with the vast majority of the points made.

There is, though, a fundamental conflict in the paper between the desire to offer an effective preventative service and the limits placed on it by the need or desire to avoid FSA regulation. The problem is that to have any useful effect an adviser must be able to advise: tell people what they should do. Any consumer of GFA will want that. Whether or not they have consumer credit licenses, most of the excellent debt-counselling services give advice in that sense.

The form of hypothetical advice proposed will be regarded as being and actually will be almost useless if it is restricted in the way suggested. The service will end up with a damaged reputation and the whole idea will fail. If a customer has an inappropriate endowment or investment, they expect an adviser to tell them this.

That will involve regulation at the very least because MiFID requires it in connection with MiFID products and the IMD prevents anyone from introducing a person for the purposes of taking out insurance without being registered. (This latter point seems to have been missed.) Both Directives require a dispute resolution mechanism for complaints - in practice FOS.

My main suggestion is that the Review examines whether what it is proposing will be of interest to consumers when they become aware of its limitations.

I also share the hesitations of the author of Annex 4 that generic advice of value can really be provided outside the scope of the FSMA. If a public sector employee of modest means, paying into a personal pension seeks advice about it, the adviser has to find out about the pension scheme available at work and is being negligent in not telling the customer to stop personal pension payments and divert the cash to the OPS if the customer is unable to pay into both. He should also tell the customer to complain about the advice given. The first part of the advice would be regulated by the FSA and the second would be regulated under the Compensation Act if the first part is not.

The Review is, though, right to reject the notion of a service selling investments or insurance. However, to be effective, it must have some bite. That would involve FSA regulation. One could carve out some exceptions using the RAO. Ultimately, the EU regulation would catch up with the system.

Although the FSA hates the idea, it might not be a bad idea for GFA to be delivered through FSA regulation. It would take away arguments about the perimeter fence. It would insist that providers of generic financial advice were properly authorised, fit and proper and competent. To the extent that the public body was going to provide the service in alliance with partners, it could pick up any compensation bill.

The Review's Interim Report refers to the need to control the entry to the GFA business. That must be right. There are already a number of not-for-profit entities actually commercially exploiting the field (drawing individual salaries from the business) with no checks on their competence, qualifications or fitness. This should be a source of concern.

Even if one uses the proposed model, there will have to be some form of regulation anyway to ensure that offerors of GFA meet requisite standards. This could come from the existing GFA providers such as Toynbee Hall. In the future, though, it would have to be done by the proposed body. There are a significant number of websites, often funded through click-throughs to financial services providers which the FSA wrongly declines to regulate. These should come within GFA regulation since that is what they purport to provide.

If GFA is to work, one will need to develop knowledge based training to ensure that advisers know what they are talking about. Accreditation and training needs to depend on the activities undertaken by the individuals concerned. What must not happen is the current situation

where advice is given on the basis that because it is generic, knowledge is not required. GFA must be a quality service or it may do more damage than good. This does not mean that all GF advisers must have DipPFS although perhaps some should. A training and assessment programme needs to be developed for each type of activity involved.

Any form of referral work that relates to insurance will have to be regulated under the IMD unless one can slot the new entity into the description of "not during the course of business". Again, for the reasons indicated above, that may not be a bad thing.

One other regulatory problem that has not been referred to in the Interim Report or Annex 4 is the Compensation Act. GFA should be capable of telling a customer that he should complain. That requires authorization as a claims management firm if done in the course of business subject to various exclusions. An authorised GFA provider under the FSMA or something else could be exempt.

This is a difficult area and the Review is to be congratulated on initiating a most challenging debate about the depth of generic advice and its control. I would be happy to contribute in any way possible.

Adam Samuel