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Dear Gary,

AFM Response to GC14/3: Retail Investment Advice: Clarifying the boundaries and exploring the barriers to market development

1. I am writing in response to this consultation paper, on behalf of the Association of Financial Mutuals. The objectives we seek from our response are to:

   - Comment on the usefulness of the guidance provided; and
   - Highlight practical consequences for our members.

2. The Association of Financial Mutuals (AFM) represents 52 member companies based in the UK and Ireland, most of which are owned by their customers. Between them, AFM members manage the savings, pensions, protection and healthcare needs of over 20 million people, and have total funds under management of over £100 billion. The nature of their ownership and the consequently lower prices, higher returns or better service that typically result, make mutuals accessible and attractive to consumers, and have been recognised by Parliament as worthy of continued support and promotion.

3. There has been a great deal of debate in recent times about the types and nature of advice available to consumers. In particular, the Retail Distribution Review has had significant consequences for the nature and availability of advice, whilst the 2014 budget announcement on retirement guidance has exacerbated that further. The increasing use

of digital channels further changes the landscape, whilst the likelihood of new European rules on advice and suitability will also have an effect.

4. The guidance consultation is therefore timely, and it also serves to illustrate the wide range of advice and the opportunities for confusion for both consumers and regulated organisations. Indeed, whilst the paper is comprehensive, it does not cover the complete advice alternatives available: for example basic advice, which we believe is a model worthy of more thinking from industry and regulators, is excluded.

5. Since the introduction of the RDR, a number of members have reduced significantly their reliance on intermediated advice. In many cases this is because IFAs have shifted their business towards more profitable clients, or reduced demand for certain products. We therefore see within mutuals a greater focus on non-advised sales, particularly via direct marketing or via introducers.

6. We are though seeing some signs of innovation in relation to channels of distribution, and there are more signs that organisations are keen to explore solutions such as online simplified advice tools. We think these will be key to addressing the growing number of people without access to good quality advice delivered in person.

7. However, the scale and cost of online solutions will make them most likely to be adopted by large banks and insurers. Many of our members will be unable either individually or collectively to develop such models, and in any event may continue to prefer a more personalised approach. Indeed, the nature of their customers, many of whom have limited experience in financial matters, mean that they remain mistrustful of online advice, or lack access to it. It remains important therefore that low-cost advice alternatives are available, if the market is to avoid being entirely populated of a few large providers.

8. We were pleased to see within the consultation a view expressed by the Financial Ombudsman. For many years industry has clearly expressed its concern that a different lens on suitability would be applied to simplified advice by FOS, and this has reduced innovation significantly. Any statement is therefore helpful, though the limited nature of the points made by FOS is disappointing.

9. The examples provided by the FCA in its guidance consultation will be helpful to organisations in verifying their approach against the current rulebook. The examples provide a useful starting point for organisations to assess their current approach as well as any evolution of it. It will be important to maintain these examples, to account for

developments such as MiFID, and for this reason we would like to see them adopted in the Handbook.

10. For example, under the more onerous suitability requirements under MiFID, where personal recommendations are given to customers electronically, there are additional risks in the design of processes: in particular, the systemic risk for the firm if part of the process produces unintended or unsuitable recommendations for customers.

11. We also think that including the guidance within the Handbook could help to nurture and develop demand for effective solutions on simplified advice. Whilst there is greater clarity now than previously, there is still uncertainty on the barriers between simplified advice and full advice, and where the FCA remains reluctant to relaxing rules for people to give simplified advice, the main demand for it is likely to be via online solutions.

12. FCA helpful explains in the paper that "providing definitive guidance on whether something is regulated advice depends not only the facts of the individual case, but also the context". We agree with this, but would have liked to have seen some more thinking and examples on context, as the current approach increases uncertainty.

13. Some other points we've received from members include:

    a. Some of the passages on personal recommendations would benefit from more clarity. There appears still to be some judgment needed over when a personal recommendation has been made. With a growing advice gap post-RDR, people are increasingly looking for other sources of help in making investment decisions. This will increase reliance on online information, social media, the staff of providers, or friends and family as sources of information/ advice- inevitably some people will consider these sources capable of giving implicit personal recommendations.
    b. It would be helpful to see a clear list of products within the scope of the guidance. For example, it would be helpful to see alignment with the scope of RDR, as well as European regulation such as KIID and other regulatory developments.

14. Project Innovate potentially allows the financial services sector a valuable opportunity to contribute to regulatory change that supports innovation. Where it is successful, it will be particularly valuable to firms in understanding how they can adequately address digital compliance risks. Some of the key issues to understand in the initial phases of its development are:

- The need for new, commercially sensitive ideas to be handled discreetly and confidentially.
- How quickly FCA can respond on issues- given the nature of innovation, valuable competitive advantage will be lost if there is an extended delay.
- Does the process create safe harbour for proposals that are deemed effective, and how supervisors, as well as the Financial Ombudsman will view this.
- How will FCA ensure that the Project is managed in a proportionate basis and that small firms in particular are not saddled with significant additional costs as a result of using it.
- What rewards there may be for firms participating actively and constructively in the Innovation Hub, as well as penalties for organisations that avoid it.

15. Ultimately we would hope to see the Innovation Hub allowing for the expansion of model examples provided in the guidance: examples put forward by firms of models providing helpful guidance for customers in a non-advised context might in future be adopted by FCA in its own guidance.

16. We would be pleased to discuss further any of the issues raised by our response.

Yours sincerely,

Chief Executive
Association of Financial Mutuals