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AFM Response to FCA on Call for Input: Open Finance

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 ideas proposed for the development of Open Finance; and
   - Consider the consequences for mutual insurers.

2. The Association of Financial Mutuals (AFM) represents insurance and healthcare providers that are owned by their customers, or which are established to serve a defined community (on a not for profit basis). Between them, mutual insurers manage the savings, pensions, protection and healthcare needs of over 30 million people in the UK and Ireland, collect annual premium income of £19.6 billion, and employ nearly 30,000 staff[1].

3. The nature of their ownership and the consequently lower prices, higher returns or better service that typically results, make mutuals accessible and attractive to consumers, and have been recognised by Parliament as worthy of continued support and promotion. In particular, FCA and PRA are required to analyse whether new rules impose any significantly different consequences for mutual businesses[2] and to take account of corporate diversity[3].

[1] ICMIF, https://www.icmif.org/publications/market-insights/market-insights-uk-2016
[2] Financial Services Act 2012, section 138 K: http://www.legislation.gov.uk/ukpga/2012/21/section/24/enacted
[3] http://www.legislation.gov.uk/ukpga/2016/14/section/20/enacted

4. We welcome FCA's work in understanding the consequences of technology developments for the financial services industry, and for the opportunity to respond to the Call for Input on this exciting new development. And just as the development of enhanced technology and better access to more data creates opportunities to better serve consumers, it also calls on regulators to ensure that consumers are even further protected.

5. The starting point for the work on Open Finance is of course the development of Open Banking and, as explained in the paper, "a secure environment enabling customers to consent to third parties accessing their payment account information or making payments on their behalf". Whilst the paper also highlights the potential for this to influence the launch of new products and services, the focus of open banking today appears to be transactional, enabling the use of data to make banking transactions easier to perform. Open banking is, as the paper acknowledges, still in its infancy and many years away from delivering the benefits that would also be a bedrock for Open Finance.

6. FCA's vision for Open Finance is that over time it might enable consumers "to compare price and product features and switch product or provider", and to "widen access to advice and support in decision making". The concepts of Open Banking and Open Finance are potentially different therefore: in terms of Maslow's Hierarchy of Needs, Open Banking fulfills mainly transactional/ physiological needs, whilst Open Finance has the potential to move beyond the base of Maslow's pyramid.

7. FCA prominently gives credit to input from its advisory group for developing its thinking on Open Finance. The FCA website lists the names of those involved in the advisory group but, almost uniquely, it does not highlight their specific interests or who they represent. This is unhelpful as it does not give proper context to their input: for example, if the group is made up entirely of representatives from start-ups and IT developers, it will have a different expectation of the value of Open Finance than, say, a traditional insurance provider, and it will be less grounded in the practical consequences of its proposals, for consumer protection in existing books of business.

8. To illustrate, the paper from the incentives working group rightly identifies that there are both incentives for firms for sharing data with third parties, but that there are also blockages. For a mutual insurance company offering long-term investments, pensions or insurance solutions, the incentives (largely proposed in the papers as monetary reward) are limited, whilst the blockages/ deterrents are much more fundamental than those covered in the published review.

9. Those deterrents, in addition to the risks observed in Chapter 4 of the Call for Input, may include:

    a. the complexity of price-setting in insurance compared to banking products, which means that a superficial scraping of data, as per the table on page 12, will not adequately support potential switching because it will not support a detailed underwriting process;
    b. the contractual relationship between the customer and the provider;
    c. where the product was intermediated, the contractual relationship between the intermediary and provider;
    d. the dual nature of policyholders as both customers and owners of the business in a mutual;
    e. the element of highly sensitive personal information often used in insurance underwriting, including confidential medical reports;
    f. the nature of insurance, and the changing financial and health conditions of the customer that often make it difficult or impossible to substitute/ switch a long-held product for a replacement with greater value; and
    g. the link between the long-term accumulation of information by an insurance provider, and the long-term relationship with the customer, which means that data is inextricably linked with the sustainability of an insurer.

10. Whilst that final point appears particularly defensive, we do see the opportunity for Open Finance, over time, to help address a core issue in financial services: that players within the distribution chain potentially create obstacles to competition, in order to protect their vested/ financial interests. Those actions are often to the detriment of the consumer, and stifle innovation and reduce efficiency. By way of example:
    a. Less affluent people suffer from an absence of financial advice, and platforms very often focus on price to the detriment of meeting all the customers' needs.
    b. In assessing claims experience in some product lines, we are seeing a small but increasing trend of claims being rejected through non-disclosure at the point of sale. This appears to be linked, in many cases, to an intermediary that has overlooked pre-existing medical conditions, either deliberately or unintentionally.
    c. We have witnessed cases where new mutuals are being created, particularly in the public sector, but face significant obstacles through the actions of incumbent insurers and brokers.

    Ultimately, Open Finance can change this, though to do so in insurance may involve a complete overhaul of the nature of insurance provision in the UK.

11. We also share some of the concerns raised in the paper by FCA about data ethics. In our assessment, the development of big data and sophisticated algorithms in insurance offers opportunities for more sophisticated products, but it may also present a core risk to FCA's principles. To illustrate, it might be assumed the creation of significant data pools by TPPs will enable people with ready access to insurance to get a better deal. However, we are concerned that big data will make it more difficult for a significant minority of consumers to obtain effective cover at a fair price: in other words, "personalisation will result in the data rich being priced with more attention and enthusiasm than the data poor"[4].

12. We conclude that it is important that the work on Open Finance is taken forward, though with a clearer understanding of where it can add most value. We think this is likely to be in the areas closest to the current vision for Open Banking, i.e. in facilitating transactions; in producing personal financial management dashboards; in supporting consumers with debt problems and creditworthiness; and to support consumers with no access to advice, in making more effective decisions.

13. The balance of Open Finance, between risk and reward therefore, for insurers and their customers, particularly for mutuals, are not clearly explored through FCA's work so far. At this stage, in the way FCA takes forward Open Finance, we envisage a more modest role for insurance products.

14. This might include the sharing of anonymised consumer data, to inform risk management and product development, and trend analysis, which should take account of:

    a. The use of consumer data should be for the benefit of the consumer, and people should have a clear understanding and control over the use of their data;
    b. Access to, and use of, consumer (and SME) data, including FCA rules on who has access to date, and what for, and what happens if data is misused;
    c. An audit trail for AI-driven decisions and for consent management;
    d. Anonymised data can still provide consumers with information about their financial position and present them with more relevant and accurate predictive analysis and highlights the options available to them.

4 Duncan Minty, Ethics and Insurance, 2018, https://ethicsandinsurance.info/2018/03/08/personalisation/

15. Our further observations include:

   a. The paper makes regular reference to the GDPR as the appropriate standard by which to establish standards in the UK; however, the Prime Minister's written statement on UK/ EU relations (3 February), makes it clear that the UK will develop separate and independent policies in a range of areas, including data protection;
   b. In Australia, the Consumer Data Rights Act, introduced in 2017/18, is already broader than the UK's Open Banking, and indicates a way forward by concentration initially on mortgages, lending and credit cards, before being rolled out to utilities and telecoms.

16. We would welcome the opportunity to discuss further the issues raised by our response.

Yours sincerely,

Martin Shaw
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Association of Financial Mutuals