Public affairs update

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A round up of policy events and news

1. Top story

FCA on boundaries between guidance and advice Following a guidance consultation last summer, the Financial Conduct Authority has issued its finalised guidance to clarify the boundaries between what is and what is not a personal recommendation in the investment market. This is deemed important in clarifying the process for simplified advice.

- For advice to be regulated, it must relate to a specific investment and must be given to the person in their capacity as an investor or potential investor.
- The regulator provides examples to illustrate the difference between advice and information, and the distinctions for generic financial advice.
- Following the feedback received from the market, the FCA have strengthened their initial proposals, including amending the terminology, simplifying its communication, providing extra examples and introduced a definitive glossary of terms.

Next Steps: This guidance paper represents the FCA's final considered viewpoint of the regulated advice boundary. The FCA will consult in the upcoming months on proposals to replace the ABI Code on Retirement Choices. *Click here*

The CII has published a briefing on what constitutes retail investment advice for members click here

2. General insurance

Insurance Bill The Insurance Bill is continuing its passage through Parliament. It is currently at Committee Stage in the Commons. This is one of the points at which the Bill can be amended. The Bill has already completed its passage through the House of Lords and should become an Act of Parliament during February. This piece of legislation will implement changes to insurance contract law. *Click here*

FCA announce GAP insurance proposals Following the completion of its Market Study into General Insurance Add Ons, the FCA has put forward a "competition remedy" in relation to GAP insurance. The FCA's consultation paper requests comments on the two measures proposed to improve competition in the market. The measures are:

- A deferred opt-in period for customers when add-on GAP insurance is sold as part of buying a vehicle.
- Improved information about shopping around – this is part of the information that would trigger the start of the deferral period.

The consultation runs until 13 March, with final rules expected in June. *Click here*

Flood Re Flood Re has announced a wide-ranging agreement with the Government on the draft Regulations that will complete the legal framework needed to establish it. The agreement paves the way for the next key steps needed in the implementation of Flood Re. The firm will require full regulatory approval from the Prudential Regulatory Authority and Financial Conduct Authority.

BIBA Manifesto The British Insurance Brokers' Association (BIBA) has published its 2015 manifesto. There are 20 calls for action within the manifesto covering issues including flood prevention funding, business taxation and apprenticeships. *Click here*

CMA consults on draft motor insurance order The Competition and Markets Authority (CMA) has published, for comment, a draft order setting out how changes resulting from its investigation into private motor insurance will be introduced. Those changes are: ban agreements between price comparison websites and insurers which stop insurers from making their products available more cheaply on other online platforms and ensure better information for consumers on the costs and benefits of no-claims bonus protection. *Click here*

Senior Insurance Managers Regime The consultation on the Prudential Regulation Authority's new Senior Insurance Managers Regime has closed with final details of the regime expected later this year. *To read the CII's briefing on the new regulatory framework for insurance click here* .

3. Pensions reform – pensions freedoms

Overall Progress The Government and FCA are overseeing the retirement reforms outlined in Budget 2014 ahead of the 6 April launch date. Most notable on that date will be the planned roll out of the proposed at-retirement guidance (termed "pensions guidance" by the *Pension Schemes Bill*), to be offered to all members of a Defined Contribution (DC) pension scheme approaching retirement.

3.1 Pensions Schemes Bill and other legislation Parliament is currently debating the *Pension Schemes Bill* which makes amendments to the *Financial Services & Markets Act* and contains several practical provisions in relation to guidance:

- **A definition of *pensions guidance***: as "guidance given for the purposes of helping a member of a [DC] pension scheme to make decision about what to do with the cash balance benefits or other money purchase benefits that may be provided to the member". For the remainder of this note, this term will be used.
- **Designates guidance delivery providers:** TPAS and Citizens Advice's affiliate bodies, or any other person or organisation designated by HMT.
- **Sets out FCA powers:** to develop standards for pensions guidance and oversee delivery partners.
- **Criminal status of falsely giving Pensions Guidance:** defined as either falsely describing oneself as a guidance provider in whatever terms or holding oneself out as such. It includes punishments of fines and/or custodial sentences.
- **Parliamentary debates on Guidance** have also taken place in the Work & Pensions Committee and in the context of the *Taxation of Pensions Bill.*

Next steps: the *Pension Schemes Bill* should receive Royal Assent in February.

3.2 HM Treasury HM Treasury is coordinating the delivery of the Guidance with a view to an implementation on 1 April. It published an update paper on 12 January setting out its plan for delivery: *Click here*

Pension wise
Your money. Your choice.
Backed by HM Government

- **Working with delivery partners**: having designated TPAS and Citizens Advice as delivery partners so far, it is working closely with them to see through preparation. They have seconded staff to those offices, and are overseeing various practical aspects including training, systems and controls, etc.

- **Unveiling the brand**: the Treasury also announced on 12 January the overarching public-facing identity for Pensions Guidance: "PensionWise: Your money, Your choice, backed by HM Government." The logo is reproduced here.
- **Website:** the Treasury announced the launch of a new website *www.gov.uk/pensionwise* prepared by the Government Digital Service in association with the Money Advice Service. It serves as the on-line channel, containing information about the pension guidance, where to access Pensions Guidance, and six steps in considering pensions decululation options, including getting professional financial advice. The latter included a link to the Personal Finance Society's *www.findanadviser.org* site.
- **Piloting**: the website also included a link inviting customers to "express interest" in receiving Pensions Guidance ahead of launch. This went live on 12 January allowing the Treasury and delivery partners to pilot the whole Pension Wise material including the guidance itself ahead of April.
- **Forecasting demand:** the Treasury and the delivery partners are working in conjunction with providers via the Association of British Insurers to model various demand scenarios. All indications from this as well as other stakeholders suggest a spike in the first few months as retirees from as early as autumn 2014 defer decumulation until the reforms are in force in April.
- **Funding**: the Treasury have earmarked a total of £35m of FCA Levy funding for FY2015/2016 for the purposes of Pension Wise activity including the guidance. It has said that any additional costs above this Levy value will come from the Treasury funds, and the department will reclaim this from the subsequent year's Levy.

Next steps: HMT will oversee implementation including the pilot of the Pensions Guidance services though Q1, and undertake any follow-up work in conjunction with other DWP and the FCA.

3.3 FCA work The FCA published a Policy Statement in late November setting out its near-final approach in the areas of guidance standards and the requirements for pension providers in treating its at-retirement customers, especially signposting people to the guidance: *click here*.

As described above, the *Pension Schemes Bill* clearly indicates the FCA's remit in developing standards for delivery, making rules on how existing financial services firms communicate with customers about Guidance, and overseeing designated delivery partners.

Having consulted on the first two of these areas in June, its Policy Statement now indicates how the FCA will approach these roles. It also set out a high level approach on overseeing Delivery Partners.

Next steps: the FCA will publish final rules and standards as soon as possible after Royal Assent of the *Pension Schemes Bill*. It will also consult in early 2015 on overseeing delivery partners as this will be an entirely new remit for the regulator.

3.4 Citizens Advice announce pension guidance sites Citizens Advice has named the first 44 bureaux that will deliver face-to-face sessions as part of the Government-backed pensions guidance service Pension Wise. People will be able to book guidance appointments at any Citizen Advice office but will have to travel to a designated delivery centre for the session itself. Each office will have between three and seven staff, depending on the demand in the area. *Click here*

3.5 Taxation of Pensions Act 2014 The Taxation of Pensions Bill received Royal Assent in December 2014, becoming The Taxation of Pensions Act 2014. The Act legislates for Treasury proposals to give people greater freedom with their pension pots legislates, including for uncrystallised funds pension lump sums (UFPLS). *Click here*

3.6 FCA's review of annuities – Market Study The annuities market is not working well for most consumers, according to the FCA's market study into retirement income. The interim report presents the FCA's provisional findings on how the current market works and provides a series of recommendations to improve communication between firms and their customers. The FCA has also published the findings of its thematic review into annuity sales practices. It found that eight out of ten consumers who purchased their annuity from their existing provider could have achieved a better deal on the open market and that that consumers are possibly buying the wrong type of annuity, and in particular not purchasing an enhanced annuity when they may be eligible for one. The FCA's report includes proposed remedies and actions:

- A requirement on firms to make it clear to consumers how their quote compares relative to the quotes of other providers operating on the open market.
- Pensions guidance services and firms to take into account framing effects and other biases when designing tools to support consumer decision-making.
- Working with Government in developing an alternative to the current 'wake up pack'. This should be behaviourally trialled to assess the impact on consumer's awareness of their right to shop around, and the proportion of people who switch.

A final report will be published later this year. *Click here*

CII summary

Following consultations and discussions on the back of the proposed pension reforms announced in Budget 2014, the Government are progressing delivery of especially pensions guidance towards an April 2015 launch:

- Parliament is currently debating the *Pension Schemes Bill* which makes amendments to the *Financial Services & Markets Act* and contains several practical provisions in relation to the guidance.
- HM Treasury is coordinating the delivery of the guidance with a view to an implementation on 6 April. It published an update paper on 12 January, and unveiled the public-facing presence including a website using the overarching identity: "PensionWise": *www.gov.uk/pensionwise*.
- The FCA published a policy statement in November developing standards for delivery, and making rules on how existing providers will communicate with customers about Guidance, and how it will oversee delivery partners.

Next Steps:

- The PensionWise brand will become an umbrella identity for all HM Treasury activity in this area including training, pensions, decumulation, etc.
- HM Treasury and its delivery partners will be piloting the Pensions Guidance service in February, inviting "expressions of interest" from interested customers to trial the system ahead of launch.
- Royal Assent to the *Pension Schemes Bill* is expected occur during February. The FCA will publish its final rules on standards as well as requirements of firms as soon as possible after that Royal Assent.

The FCA will be consulting on its policy on its monitoring approach, and for making recommendations to designated guidance providers and the Treasury as part of our monitoring approach. For the full CII briefing *click here*

4. Savings, investments & financial advice

Post-RDR Thematic Review The Financial Conduct Authority has published the first phase of its post-implementation review of its changes to the retail investment advice rules. This comprised of both a thematic investigation into Handbook compliance and an externally-commissioned study investigating wider consumer trends.

The phase 1 review consisted of two broad elements:

- **Thematic Review TR14-21**: the regulator conducted a detailed thematic review into how firms were complying with the Handbook changes; and
- **Commissioned research into wider consumer trends:** led by Europe Economics and comprising of a quantitative survey undertaken by NMG Consulting on the consumer impact of the RDR on the retail investments market, an advice gap analysis: by Towers Watson on the availability of advice to meet consumer demand; and an overall assessment by Europe Economics.

The overall findings of all the studies were as follows:

- **Implementation:** overall implementation of the amended RDR rules was good, however the FCA highlighted several cases in which this was not adequate. One firm was found “not to be sufficiently engaged with the changes”, and was referred to the FCA Enforcement and Financial Crime Division.
- **Product bias**: the removal of commission from providers to advisers/platforms has reduced product bias from adviser recommendations reflected in a decline in the sale of products which paid higher commissions pre-RDR.
- **Product prices:** have fallen by at least the amounts paid in commission pre-RDR, and there is evidence some product prices may have fallen even further. This is due in part to the introduction of simpler products and funds which have a lower charge and advisers and platforms exerting more competitive pressure on providers, with platforms increasingly able to negotiate lower product costs. The removal of commission also means that providers who sold lower or no-commission products pre-RDR are now competing on a more equal basis.
- **Professional standards**: the vast majority of advisers are now qualified to the new minimum standards and there has been an increase in the number of advisers going beyond these minimum standards. The increase in qualifications, along with greater focus on provision of ongoing advice services, indicate a direction of travel moves towards increasing professionalism in the advice market.
- **Implementation costs:** the costs to firms of complying with the RDR have been in line with or lower than expectations, with ongoing costs largely successfully absorbed into business as usual costs by the industry.
- **Existence of an "advice gap":** according to the independent researcher, there appears little evidence that the availability of advice has reduced significantly as a result of the RDR, with the majority of advisers still willing and able to take on more clients. However there is evidence that transparency of advice cost has led consumers to question its value.
- **Simplified advice:** there are clear opportunities for innovation in the market, particularly in relation to simplified or automated advice. However, there is currently a considerable perception of regulatory risk among potential providers related to both the FCA and the Financial Ombudsman Service (FOS). The FCA has stated that it wants to remove regulatory obstacles to such advice services and will shortly be publishing guidance on this.
- **Improving customer understanding**: the FCA are considering an idea put forward by the Financial Services Practitioner Panel to introduce a simple label that better sets the consumers’ expectations by explaining the

scope of the firm's advice. This will form part of the FCA's wider work on the provision of information to consumers, due for publication in Q1 2015.

Professionalism, Qualifications and Trust There are indications of a move towards a more professional advice market with the majority of advisers fully qualified to the new minimum standards. We would expect increases in consumer confidence and trust to follow in due course.

- Vast majority of advisers are fully qualified to the new higher minimum standards – 95% in 2013
- Increase in the proportion of advisers going beyond minimum standards and attaining chartered or certified status – 29% in Q1 2014 from 14% in Q4 2012.
- There has also been growth in the proportion of advisers who belong to a professional body – 89% in 2012 from 77% in 2011.
- Changes not yet resulted in increased consumer confidence and trust. But trust in advisers affected by broader events in financial services.
- Among advised consumers, trust in advisers remains high.
- However amongst the general population trust is lower and has declined slightly – 36% of consumers disagreed that financial advisers make recommendations in the best interests of their customers vs. 34% in 2010.

Next Steps: the next phase of the review will be published in 2017, allowing the FCA to draw from at least three years of evidence as firms complete the transitional process, allowing a more complete analysis as to the medium-term impacts of the rule changes.

The regulator will also take action in the following areas:

- **Consumer understanding of advice offered**: the FCA will gather ideas for better ways to present information to consumers on the nature of advice services offered and advice charges. This work will form part of the FCA's wider work on the provision of information to consumers, due for publication in Q1-2015.
- **Innovation in advice models:** to remove unnecessary regulatory obstacles that may stand in the way of innovations in advice models. The FCA will in January publish guidance in relation to sales that do or do not involve a personal recommendation. It has also recently launched Project Innovate, an opportunity for businesses wishing to develop new simplified advice or other innovation which benefits consumers.

Click here

For the CII's full briefing on the thematic review click here

5. From the regulators (general)

Davies Review The FCA has published the report, prepared by Simon Davis of Clifford Chance, into the launch of the regulator's 2014/15 business plan and in particular the botched announcement of proposed work on the "fair treatment of long standing customers in life insurance".

The report makes a number of criticisms about the way in which the FCA handled the incident and makes recommendations to increase the standard of the FCA's systems, processes and way of working.

The FCA confirms in its response that the mistakes it made will not be repeated and that in future, its annual business plan will be released to all market participants at the same time.

In advance of the report's findings, the FCA undertook an internal reorganisation which saw Clive Adamson (former Director of Supervision), Zitah McMillan (former Head of Media) and Victoria Raffe (an executive committee member) all leave.

The implications are likely to be more widespread than individual changes. Indeed the FCA launched a pre-emptive reorganisation ahead of the Davis report (see next item). *Click here*

FCA's strategic approach to regulatory challenges The FCA has set out details of its strategic approach to regulatory challenges ahead following a detailed review of its strategy and ways of working. The new approach is aimed at providing a sharper focus on how firms are regulated and on delivering the right outcome for both consumers and the markets. There will be several structural changes, including:

- bringing together the authorisations and supervision divisions with specialist supervision functions (a process that will be managed by Tracy McDermott);
- a new strategy and competition division led by Christopher Woolard;
- a new risk division led by Richard Sutcliffe;
- a new markets policy and international division led by David Lawton; and
- a market oversight division led by Marc Teasdale, on an acting basis.

The changes came into force on 5 January and will be fully in place by April 2015. *Click here*

FCA announce investigation into PPI complaints The FCA will shortly begin gathering evidence on how the PPI complaints process is working. The regulator will use this to consider whether further intervention is required. Results of this work will be announced in the summer. *Click here*

Long-stop complaints to FOS The FCA is continuing its work to consider the case for a 15 year long stop on complaints to FOS. The outcome of its review will be published in "due course".

FCA consults on its competition powers The FCA is consulting on the procedural guidance to the competition powers the FCA will acquire from 1 April. The FCA will have the power to enforce prohibitions of the Competition Act 1998 on anti-competitive behaviour in relation to the provision of financial services. The consultation covers draft guidance on the FCA's powers under the 1998 Act, draft guidance on market studies and making market investigation references and a draft legislative instrument to introduce minor amendments to the FCA Handbook. The deadline for comments is 13 March. *Click here*

FCA cash savings market study report The FCA has issued a report on the final findings of its cash savings market study. It focuses on savings accounts available to retail consumers in the UK and concludes that competition in the £700 billion cash savings market is not working effectively for many consumers, particularly those with long-standing accounts. The regulator proposes a number of changes to the market including:

- asking providers to be more transparent about how reductions in interest rates on variable rate savings accounts are applied the longer a consumer holds the account;
- requiring consumers to be given clearer and more timely information to help them compare a savings account with alternative products and know how to switch if they want to do so;
- making it easier for consumers to view and manage accounts with different providers in one place; and

- making the switching process as easy as possible so that consumers are not put off moving their money to another provider or to another savings account with the same provider, and a reduction in the 15 day switching time for Cash ISAs.

The FCA does not intend to mandate the specific number or type of products that each provider should offer. However, the FCA does note that a number of providers have recently simplified their product ranges and states that providers that have not yet reviewed their product range should consider whether their current products deliver good outcomes to consumers. The deadline for comments is 18 February. *Click here*

Financial ombudsman consults on plans and budget for the year ahead The Financial Ombudsman Service has published its proposed plan and budget for the next financial year (2015/2016) for public consultation – together with an update on numbers for the current financial year (2014/2015). Plans include lowering the total cost of the ombudsman to the financial services sector by 13% – with a reduced operating income of £220.7m. The consultation closes on February 16. *Click here*

FSCS plan and budget for 2015/2016 The Financial Services Compensation Scheme (FSCS) has issued its plan and budget for 2015/2016. This includes an announcement that the indicative levy for firms in this period will be £287 million. The FSCS expects a reduction in the overall volume of new claims in 2015/2016 compared to the previous year, with the number of claims for payment protection insurance and mortgage endowments expected to fall. However, the FSCS expects to see a significant rise in compensation costs arising from advice to transfer pension savings into self-invested personal pensions. The plan and budget is for consultation – closing date 20 February. The final 2015/2016 levy will be announced by the FSCS in April 2015. *Click here*

UK Government guidance on cyber security for businesses The UK Government has updated its guidance on how businesses can combat cyber threats. The Department for Business, Innovation & Skills' "10 Steps to Cyber Security" booklet was first published in 2012. The ten steps remain the same, but they have been updated to include a number of the new cyber security schemes and services of the National Cyber Security Programme. In addition, the Government has published a new paper, "Common Cyber Attacks: Reducing the Impact". This paper describes what a common cyber attack looks like. *Click here*

Andrew Gracie, Executive Director of Resolution, Bank of England has given a speech on the issue of cyber resilience, highlighting its importance to the sector and the high priority given to it by the Bank of England. *Click here*

6. Europe & international

Review into supervisory practices on MiFID investor information A review by the European Securities and Markets Authority (ESMA) has found that, on the whole, national competent authorities have shown a high degree of compliance in supervising the Markets in Financial Instruments Directive (MiFID) conduct of business rules. The review did find however improvements are required in the use of on-site inspections and thematic reviews and the detection of failings by firms in a timely manner.

EIOPA risk dashboard The European Insurance and Occupational Pensions Authority (EIOPA) has published an updated version of its quarterly risk dashboard. This is updated quarterly. The latest update highlights:

- market risks
- the worsening overall outlook for macroeconomic risks
- profitability challenges, due to low investment yields *Click here*

EIOPA on financial stability in the reinsurance and occupational pension fund sectors EIOPA has published its report on financial stability in relation to the reinsurance and occupational pension fund sectors in the European Economic Area. EIOPA found that although the overall profitability of insurance companies is relatively favourable and the global insurance sector has continued to grow robustly, the key risks for this sector continue to be linked to the weak macroeconomic climate, prolonged low interest rate environment and sovereign credit risk. *Click here*

For the CII's latest briefing on European developments click here

7. People moves

Prudential Regulation Authority The PRA has announced two senior appointments:

- Sam Woods - Executive Director for insurance supervision (in post 7 April 2015)
- Alex Brazier - Executive Director for financial stability strategy and risk (in post 16 March)

Sam Woods takes over from Julian Adams who left to join Prudential. Paul Fisher (Deputy Head of the PRA) had been covering the position in the interim.

FCA restructure Clive Adamson has left his post as Director of Supervision following an investigation into the launch of the regulator's 2014/15 business plan (see above).

Banking Standards Review Council Alison Cottrell has been announced as the Chief Executive of the Banking Standards. Ms Cottrell will stand down as a director in HM Treasury in April.

ABI The ABI has announced two changes to its senior team. James Dalton has been named as director of general Insurance policy, and Dr Yvonne Braun had been named as director of long term savings. As reported previously, Huw Evans has now taken over as Director General of the ABI, replacing Otto Thoresen.

Pensions Regulator Lesley Titcomb has been announced as the new Pensions Regulator CEO. She takes over from Stephen Soper, the interim CEO. Ms Titcomb was COO at the FCA.

Pensions Ombudsman Simon O'Brien will be the Interim Chief Executive from February.

The CityUK Sir Gerry Grimstone has announced he will step down at the end of his three-year term in September 2015.

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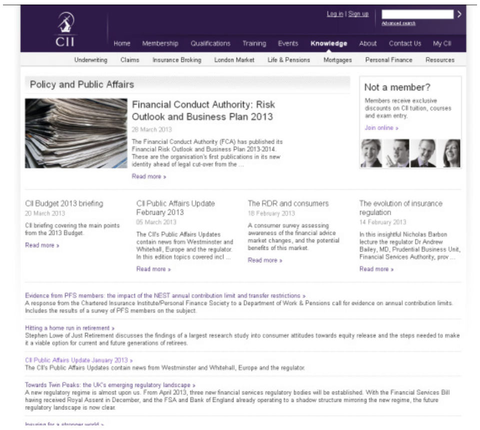

Latest publications include:

Pension reform – latest developments

Our latest briefing for members on the Government's pensions reforms covers the announcement of and details on PensionWise delivery, as well as Treasury and FCA actions from the last few months.
Click here

It's the right thing to do: empowering employees to speak up

In our latest Thinkpiece Cathy James, Chief Executive of the whistleblowing charity Public Concern at Work describes the all-too-familiar story of genuinely well-meaning employees getting ignored or even unfairly reprimanded by employers, and describes initiatives to address this. *Click here*

Global political risks in 2015 and beyond: A CII and Cicero report

Our latest report, in collaboration with Cicero, considers the potential global political and societal risks facing us in 2015 and beyond. It paints a picture of a time of continuing major economic and political challenges and risks and how the these risks can be identified, managed and, if possible, mitigated. *Click here*

New regulatory framework for insurance

As a result of two separate but related developments (Solvency II implementation and consequential changes to banking regulation) the two financial regulators - the Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA) - have published linked consultation papers setting out suggested changes to significant aspects of insurance regulation. Read our briefing to find out more. *Click here*

EU update: Insurance Mediation Directive update

Our latest EU update covers developments relating to the Insurance Mediation Directive. *Click here*

This update has been produced by the CII Group's Policy and Public Affairs team.

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