

## **2.5. Theme 5: Sales execution and other intermediary services**

This theme deals with those proposals relating to non-advice based distribution models, but also includes so-called "low advice" models. It also considers proposals relating to services such as product aggregation and comparison services and other forms of referrals and lead generation, including related remuneration.

### **2.5.1. Key stakeholder feedback and initial responses for Theme 5**

#### *(a) Non-advice sales execution (no advice) and "low advice":*

Commentators generally supported the need for clear standards for non-advised sales execution as a specific form of distribution, although a number cautioned against undermining the cost effectiveness of direct marketing models by imposing overly rigorous compliance requirements. Concerns were raised particularly regarding the practical feasibility of testing a customer's "financial capability" and clarity was requested as to whether this related purely to affordability, or to general financial literacy. The FSB confirms that our intention is not to limit the term only to affordability, but that an appropriate level of affordability testing may be a necessary measure in these models. We recognise that further work will be required to develop pragmatic standards in this regard.

There was considerable support for the introduction of a so-called "low advice" model, to provide a level of customer support and guidance between non-advised sales execution models and models offering a fully fledged financial needs analysis. Views differed however on exactly what a "low advice" model should address. Some suggested that it should focus on so-called "single need" product advice. Others argued that it should not be limited to a particular range of needs and / or products, but instead be a form of "scaled down" advice with a simplified prescribed advice process. Views also differed on the distinction between "non-advice" and "low advice" – ranging from arguments on the one hand that current direct marketing channels should not be seen as providing non-advice services but rather that they actually all provide a form of "low advice"; to arguments on the other hand that there "is no such thing as low advice" and that all forms of advice should meet the same standards.

The FSB agrees with concerns expressed that the phrase "low advice" has negative connotations, and could be incorrectly interpreted as implying a lower quality of advice and/or as applying only to the low income market. In particular, care should be taken to avoid a perception that lower standards of advice will apply to low income customers. The FSB will consider a more accurate description of what we previously termed "low advice" as the final model develops.

Views on the extent to which non-advice or "low advice" models lead to fair outcomes in lower income or mass market segments were mixed. Some argued that face-to-face advice was fairer to unsophisticated customers and should always apply in these markets, while others argued that the costs of face-to-face advice were prohibitive in these markets and that correctly designed non-advice or low advice models were the most effective way to provide access to affordable products for low income and or mass market customers.

Some commentators queried the proposal to limit non-advice and "low advice" models to the distribution of simple products only, arguing that relatively sophisticated investors should not be "forced" to use (and pay for) the services of an adviser if they do not wish to. The FSB accepts this argument, and confirms that our intention is not to disallow individual customers from making an informed decision to act without advice, but rather to address information asymmetry risks where relatively complex products are provided to the mass market without customers having the benefit of appropriate advice. Caution was also urged against overly rigorous product standards which could stifle innovation and competition in products offered through these channels. The FSB agrees that this would be a negative outcome, although we also point out that for customers to fully benefit from competitive product offerings they need to be in a position to understand and compare offerings and make informed choices.

Commentators representing product suppliers also requested clarity regarding the extent of product supplier responsibility in relation to non-advice or low advice distribution models. This will be addressed through further consultation, but the FSB takes this opportunity to reiterate the general principle that, in cases where a product supplier elects to use a distribution channel that offers non-advice or limited advice, we expect the product supplier to take particular care regarding the suitability of the product for its intended target market and the quality and suitability of information provided during the sales process. In particular, product supplier responsibility to ensure that telemarketers or other product "sellers" in these models have adequate product specific knowledge will be a focus area.

The need to consider system based or so-called “robo-advice” tools, that guide a customer to a particular product or product type selection, in developing standards for non-advice or low advice channels was also highlighted. The FSB agrees that this is an important focus area. Such tools are potentially important in mitigating the risk of an “advice gap” for customers who – for various reasons – may not use traditional advice channels. Appropriate standards for such tools need to be considered and will require debate regarding when such tools should be regarded as providing “advice” and, if so, what safeguards will be reasonable to balance customer protection against the benefits of innovation and convenience.

The FSB agrees that the various stakeholder inputs summarised in the preceding paragraphs all require further debate. Further consultation on how best to define and set standards for these non-advice and “low advice” models – including whether to link them to particular product types, particular advice / sales processes, or a combination of both – is taking place through the FSB’s current engagements on the enhanced FAIS adviser competency model (see discussion under Theme 1 above).

*(b) Product aggregation and comparison services and leads and referrals:*

Other proposals included in this RDR theme are those relating to setting standards for product aggregation and comparison services, and for referrals and lead generation. There was general support for the development of standards for aggregation and comparison services, particularly regarding the importance of not over-emphasising price in relation to benefits and other product features. The need for clarity regarding the identity and range of product suppliers offered by the comparison or aggregation service was also highlighted. Some stakeholders requested clarity on the scope of activities that would be included in the proposal. The FSB agrees that these points need to be considered in the development of the proposed standards.

The proposal to set standards for referrals and lead generation also enjoyed general support, although the FSB was cautioned against using wide definitions that would bring lay people into the regulatory net. We confirm that the intention is to focus on referral activities that are carried out for remuneration or as part of a business. Various concerns were also raised regarding the importance of information protection measures in such models, and not duplicating requirements of the Protection of Personal Information Act. The FSB confirms that it is not our intention to duplicate other regulatory frameworks. We also agree

with comments made that standards will need to deal appropriately with referrals and leads within groups of companies and with external third parties respectively.

## **2.5.2. Implementation phases for Theme 5**

### ***(a) Phase 1***

This theme does not include any Phase 1 proposals.

### ***(b) Phase 2***

As mentioned under Theme 1, it is expected that implementation of the enhanced FAIS competency framework will start during the Phase 2 period. This means that those aspects of Proposals B and D relating to non-advice sales execution only models and “low advice” (to be renamed) models that will be addressed through the competency model work, will be implemented in this phase. Other aspects of these models may be deferred until Phase 3, to align with full implementation of the final adviser categorisation model. Implementation of Proposals EE and WW, dealing with product supplier responsibility for non-advice sales execution and remuneration for non-advice sales execution will be aligned with the implementation of Proposal D.

Other proposals to be implemented during Phase 2 include:

- *Proposal H*: Standards for product aggregation and comparison services.
- *Proposals I and XX*: Standards for referrals and lead generation and related remuneration standards.

### ***(c) Phase 3***

Those elements of Proposals B and D (the non-advice and “low advice” standards) that are not addressed through the FAIS competency model review and require alignment with the final adviser categorisation model will be progressed in Phase 3.