

IT LOOKS SIMPLE

If you study the principles of shockwaves, in essence an action or activity in one particular place can cause disruption or opposite effects elsewhere. To me that seems akin to what was originally intended for consumers following RDR and the intention to protect their interests.

The RDR of 2012 fundamentally changed how retail investment advice was given. It banned commission and now advisers make an explicit charge, which customers have to pay, for advice. We have reached the point within the industry of responding to the regulators consultative paper on simplified advice, aimed originally to help consumers serve their financial access interests easily and from a wide source of providers within the market.

However, the market has not developed as anticipated by the regulator whilst the boundaries between sales models that provide personal recommendations on retail investments, like simplified advice models, and those that do not, remain unclear to providers.

So why have these 'new' service models not yet appeared in the market?

Firms are uncertain about the breadth of the suitability standard for providing personal recommendations online, especially when for a focused scope like simplified advice. Unfortunately, currently, the limits of focused scope are not clear and understood by the market. Automated advice processes will invariably deliver this type of service. However, they could result in systemic mis-selling and the potentially damaging liability issues make these processes less viable. Providers fear that the regulator might order a systemic past business review either against one firm or the whole industry, with all the inherent reputational cost and brand damage.

Provider firms believe they have to price into their models the risk that they may have some liability for the online simplified advice, even if the customer decides later to transact elsewhere. This could be solved by ensuring the customer is given a simple and clear statement at the start of the process, that if the customer does not buy the product through the adviser, the adviser can limit his liability. The FCA however would need to move away from considering that the duty of care in the case of focused or simplified advice in relation to retail investment products includes having to deal with wider considerations, such as the absence or insufficiency of protection insurance. This is important if the concept of simplified advice is going to be developed by some of the bigger and more conservative players, such as banks and life insurance companies, who need to spend millions to develop systems to cater for potentially very high volumes of customers.

One of the main conflicts in trying to build distribution models for this market, which is low cost by nature, is the dilemma of increased levels of compliance oversight, which defeats the objective of a streamlined process. The regulator currently has concerns with the inability of firms to filter out customers for whom the simplified advice process was inappropriate. Most provider and adviser firms however, at the point of RDR, segmented their customers, invariably identifying those that a non-advised service was appropriate for, including the range of investments to make available, the



type of and content of information non-advised customers needed and the systems necessary to cope and provide good outcomes.

A simple suggestion has been made in our TISA project group who are composing a formal response to the paper. We think the FCA should be much clearer about simplified advice and marry its guidance on the subject with their own FCA handbook. It should distinguish simplified advice much more fully from both full advice and execution-only. This is particularly the case in relation to those execution-only businesses that, in an effort to avoid liability, state that they are not giving advice when they are as close to doing so as they can be, or are actually inadvertently giving advice.

It is also important to consider disclaimers. We agree with the FCA that a disclaimer attempting to say a service is non-advised when in fact a recommendation is being presented will be ineffective in negating liability for that recommendation. However, we do believe that a well drafted, bold disclaimer describing clearly the limited extent of the simplified advice service will be effective to ensure customers understand their rights and remedies if they use that service.

The deadline for responses was 10th October. We will watch with interest what develops with the regulator to see if we can at last provide a simplified distribution mechanism that satisfies the regulators, providers, advisers and most importantly, customers.

Peter Smith, Head of Distribution Engagement