

Data Collection: Retail Mediation Activities Return and complaints data

The ABI's response to CP11/8

1. The Association of British Insurers (ABI) is the voice of the insurance and investment industry. Its members constitute over 90 per cent of the insurance market in the UK and 20 per cent across the EU. Employing more than 300,000 people in the UK alone, it is an important contributor to the UK economy and manages investments of £1.5 trillion, over 20% of the UK's total net worth.
2. The ABI welcomes the opportunity to respond to the FSA's data collection consultation.

Executive summary

3. The ABI supports the FSA's intention to collect data to monitor the market following the introduction of RDR changes, to ensure the reforms are implemented correctly and are delivering good consumer outcomes. We agree with the principle underpinning the FSA's proposals included in CP11/8 - that information on advice charges and adviser behaviour should be collected directly from advisers.
4. The questions posed in the consultation are predominately aimed at advisory firms who will provide the data required by the FSA. The proposals will therefore have a direct impact on a number of our members who have their own advisers. As product providers, our members will also incur costs to support advisory firms in the provision of this information to the FSA, as they expect to be asked to provide Management Information to advisers in a format that lends itself to RMAR data entries.
5. Although our members will be effected by the proposals included in this consultation, we do not feel best placed to responds to the specific questions raised. However, we do have a number of observations which have been outlined in the general comments section below.

General comments

Proposed revisions to the Retail Mediation Activities Return (RMAR)

6. The ABI welcomes the FSA's decision not to introduce requirements for product providers to supply additional data through the Product Sales Data (PSD) collection at this stage. We agree that it is sensible to consider how transactional data could supplement, rather than replace, data collected from advisers through the proposed extension to the RMAR.
7. As the FSA will be aware, the ABI has long believed that any data collected to monitor adviser behaviour, including information on advice charges, should be collected directly from advisers. Any data collected through the PSD to monitor advice charges and adviser behaviour would be of limited practical use in isolation or aggregate for three primary reasons.

8. Firstly, any information on advice charges collected through the PSD would only capture arrangements which providers facilitate. This would potentially exclude a large number of agreements where the consumer paid their adviser directly.
9. Secondly, the FSA would not be able to monitor the total advice charge paid by a consumer, as this total charge could be facilitated through a number of different products or partially met by the consumer paying a fee. This is especially true for advice on a portfolio of products which includes advice on a pension.¹
10. Finally, if the FSA only collected data on advice charges from providers, there is a risk advisory firms could seek to avoid the FSA's full post-RDR supervisory monitoring by requiring their fee to be paid directly rather than facilitated by a product provider.
11. Based on this, we support the FSA's proposal to expand the RMAR to capture information on advice charges, payment methods, client numbers and advisory firms' different charging structures. By collecting this data directly from advisers, we believe this will encourage good practice amongst advisers as they will be subject to a consistent supervisory approach.

Proposed complaints data collection

12. We are broadly supportive of the FSA's aim to monitor individual advisers' ethical behaviour and competence by collecting complaints data at an individual adviser level. The RDR represents an opportunity to rebuild consumer trust in the retail investment market and financial advice. This can only be achieved if the whole industry improves standards and outcomes for consumers.
13. To ensure the FSA collect data which is relevant and proportionate to the risks they are seeking to monitor, we believe it is necessary to further refine the proposals in a number of areas:
 - The FSA has not defined the time period in which they would expect complaints to be reported. Due to the long-term nature of many retail investments, some complaints could relate to advice provided 10, or even 20 years earlier. It is unclear how data collected for complaints in relation to advice or a service provided a number of years earlier will help achieve the FSA stated objective of better understanding individual advisers' ethical behaviour and competence today.
 - It is not clear whether firms would be required to report complaints for both active and inactive advisers. It is unclear what benefit there would be to collect information on inactive advisers, especially where there is little or no chance that they will re-enter the industry, perhaps because they have retired. We therefore

¹ HMRC rules require any advice charges facilitated through a pension to be commensurate with the cost of the pension advice only. Any advice charges facilitated through a pension which are not related to the product would create an unauthorised member payment triggering a tax charge for both the consumer and the firm facilitating the payment. See HMRC RPSM09106040 – Technical Pages: Member benefits: Scheme administration member payments: Rebated commission and adviser charging.

suggest it would be appropriate to require firms to only report complaints based on advice given after RDR rules come into force and for active advisers only.

- Further considerations should also be given to the impact of registering complaints against an active adviser who has subsequently moved to a different advisory firm. There could be an incentive for an advisory firm to register complaints against individuals who no longer work at their firm, especially where the individual adviser has no opportunity to dispute complaints registered against their name. Equally, there is a risk that a complaint could be unfairly reported against an adviser who has taken over responsibility for a client even though they did not provide the original advice for which the complaint is made.
 - We believe it would be sensible for the FSA to consider how advisers would be able to access their individual records to review complaints registered against their name either by their current or previous employer. Indeed, it is our interpretation that this will be a requirement under the Data Protection Act.
 - Finally, we are concerned that the FSA has not fully considered how and if individual complaint reports will be shared with accredited bodies. There is a risk that an accredited body could issue a Statement of Professional Standing (SPS) for an adviser who has numerous serious complaints made against them. This could undermine consumers' trust in the SPS which is designed to confirm that an adviser is meeting high standards of ethical behaviours.
14. Although we believe the FSA should further develop their proposals to collect complaints data from individual advisers, we are broadly supportive of the overall proposal as a way of monitoring advisers' behaviour and competence following the introduction of the RDR.