

Opinion of the EIOPA Occupational Pensions Stakeholder Group (OPSG) on Joint Committee Discussion Paper on automation in financial advice (JC 2015 080)

OPSG view on automation in financial advice in general

The OPSG welcomes this joint discussion paper from the ESAs to build a general picture of the use of automated tools in financial advice across the different sectors. It is the opinion of the OPSG that as the digitalisation of financial services increases, automation in financial advice presents numerous opportunities for consumers and industry, and carries great potential for further growth and development. At the same time, we acknowledge that the increasing automation of financial advice may also present some potential risks to consumers and industry.

However, the concept of automated financial advice and its prevalence varies greatly across the EU, and even between the different financial sectors, so it is an important starting point to have a common understanding of this concept.

Definition of advice

The OPSG is unsure about the focus of the paper on consumer perception and the broad application of the concept of advice to include anything that is perceived by consumers to be advice. The OPSG does not believe that output generated by an automated tool is per se always financial advice.

It is important to use legally robust definitions to avoid uncertainty and subjective interpretations of when advice is provided. The discussion of advice should therefore be aligned with the definitions of advice provided under existing financial services legislation, ie a personal recommendation. It seems inappropriate for the ESAs to disregard the definitions under recently approved EU financial services legislation and to opt instead for a subjective and vague concept that lacks any real clarity over its potential scope. There is a clear difference between the provision of a personalised recommendation to a consumer, which is financial advice, and other services that simply provide information in an interactive way, allowing consumers to make a choice.

It is important when giving consideration to the concept of automated financial advice to only include those tools that involve the provision of a clear personal recommendation to a customer, and not those tools which serve only to provide automated information or 'guidance' to customers.

For example, in section 26 it is stated that automated financial advice tools in the pension investment sector is an online tool that guides consumers into selecting the right type of pension funds. However, the OPSG does not believe that it can be stated per se that the online tool helps the consumer to select the right type of pension fund, but rather it can be an indication.

Risks & benefits

A number of the risks that are highlighted in the discussion paper are applicable to advice in general and are not specific to the area of automated advice. It is not clear to the OPSG why they have been referred to specifically for automated advice, as they are dealt with under general conduct of business rules. For example, other risks that are identified such as conflicts of interest and remuneration are regulated under the respective pieces of financial services legislation (eg IDD for insurance).

The OPSG acknowledges that the use of automated tools, in general, may not be suitable for all customers, as some may not be comfortable with, or have easy access to, such automated tools, while others may simply prefer to receive human advice. It is crucial therefore that rules concerning advice and information etc. are technologically neutral, meaning that the rules should not favour one medium (eg automated) over another.

Regarding the identified benefits related to keeping a record of the advisory process, the OPSG would like to stress that the more “traditional” insurance and financial advisors are already required to specify the demands and needs of their customers and to keep a record of any advice provided, for example via a suitability statement in the case of insurance-based investment products, so there is no difference with automated advice.

Future development of automated tools

Given the benefits of the use of automated advice tools, the OPSG would expect the development of these tools to continue to grow in prominence. Their further development should be encouraged and care should be taken not to impede growth or stifle innovation through rules that are obstructive or become quickly out-of-date. It would not be advisable to establish prescriptive measures aimed at the standardisation of such tools, particularly where companies are developing innovative, interactive and engaging ways to help consumers understand financial issues.

The OPSG believes that automated advice has the potential to help provide a more cost effective way for some consumers to access advice, and may be considered as an option by some who might otherwise not be in a position to afford advice. However, at the same time, and as mentioned above, we also recognise that the use of automated tools may not be suitable for all customers, particularly those who prefer to receive human advice.

Flexible approach

As the use of automated advice in financial services varies greatly across EU member states, the OPSG acknowledges that a flexible approach is important for any follow-up that the ESAs may consider. Some markets are significantly more advanced than others with regard to the development and implementation of automated tools, which should be taken into account in order to fully realise their potential and to avoid stifling innovation.