

Derek Bradley <derekbradley@panaceaadviser.com>  
To: "GARNIER, Mark (2nd Mailbox)" <mark.garnier.2nd@parliament.uk>  
Bcc: Sarah Paul <sarahpaul@PanaceaAdviser.com>, Lee Travis <L.Travis@nmba.info>  
Re: RDR and the removal of trail. Catastrophe

1 November 2013 07:58



Thanks Mark, I think your scan read has got this clearly and I am grateful for your time to do that.

Trail is already on its way out with some firms and more will follow in the approaching 2 year period. Trail removal can come in a number of ways and with RDR it can come as a result of advice being given. In fact it is perverse that no advice sees it's retention at the moment. If some 900 have told us removal will be catastrophic, the industry and regulator should be very concerned indeed.

I take your point about the regulator, their independence and as with the FSA the problem of accountability for actions remains. And of course as with all reviews, the findings come too late and resolution as a result becomes difficult if not impossible.

Regarding your observation about zero value without trail, that is of course an extreme, but after 30 years or so in business the value after removal of trail is massively reduced and only a few HNW clients may be of interest to an acquiring firm. What about the rest?

Where, in my view, there is a clear and present danger is with networks, a collapse or two due to the impact of the FCA inducements paper (rightly concluded) and removal of trail may not be too far off and that will not be a pretty sight.

I will assume that you see no merit in a fact-finding attendance in December? I think this could be helpful as I am very well aware that even you cannot move mountains, but you can take time to plan the best method to do so and this event could help.

Kind regards and thanks again for your time

Derek

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On 31 Oct 2013, at 17:43, "GARNIER, Mark (2nd Mailbox)" <[mark.garnier.2nd@parliament.uk](mailto:mark.garnier.2nd@parliament.uk)> wrote:

The trouble is, Derek, what do you want me to do about it? The TSC will only meet on this next year when the implementation has a chance to bed down and in the meantime it is the regulator who is the only one who can change it – the independent regulator. You can come and talk to me all you like, but what would it achieve? I simply cannot do any more than I am already because the regulator has to be independent by necessity. Without the backing of the TSC doing a cerebral investigation, my commentary would simply be seen as a rant and undermine future investigation.

You are not the only one who has come to talk to me about this. I am getting huge numbers of emails and requests for meetings so I am aware of the problems. The question over trail is not resolved and the Treasury has said there is no cut off date for this. But again, the regulator is independent of the Treasury.

I have scan read your email. A summary is: losing trail rights would result in a loss of predictable earnings stream for businesses, resulting in lower valuations for businesses for sale and possibly resulting in a drop off of advisors, so increasing the advice gap.

However, you are assuming in your summary that there is no value attributed to a client book and that anyone looking to buy into an IFA firm will give a zero valuation to client list, and without trail there would be a zero valuation for the business. I would challenge that.

Other communications are broadly along the same lines

M

**Mark Garnier MP**

## Member of Parliament for Wyre Forest

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**From:** Derek Bradley [mailto:derekbradley@PanaceaAdviser.com]

**Sent:** 31 October 2013 17:09

**To:** GARNIER, Mark (2nd Mailbox)

**Subject:** Re: RDR and the removal of trail. Catastrophe

Thanks for getting back Mark.

I wish I could shorten it, in fact this is as shortened as I can get it to make sense, I am happy to talk it through as that may help.

I do not wish to waste your time but the seriousness of this situation cannot be underestimated, the impact on advisers and ultimately their clients could be huge and the trail below spells this out, albeit not as short as you may wish, but it is concise in context and potential outcomes.

Kind regards

Derek

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On 31 Oct 2013, at 17:00, "GARNIER, Mark (2nd Mailbox)" <[mark.garnier.2nd@parliament.uk](mailto:mark.garnier.2nd@parliament.uk)> wrote:

Haven't had a chance to yet. Can you get it down to a few sentences? Its not that I am trying to avoid you – just that I have practically no spare time so rationing it to things that are urgent

## Mark Garnier MP

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**From:** Derek Bradley [mailto:derekbradley@PanaceaAdviser.com]  
**Sent:** 31 October 2013 16:26  
**To:** GARNIER, Mark (2nd Mailbox); GARNIER, Mark; BALDWIN, Harriett; TYRIE, Andrew  
**Subject:** Fwd: RDR and the removal of trail. Catastrophe

Hi Mark

I appreciate you are pretty busy, but, did you get a chance to look over this?

We are looking at an event in the City with various 'stakeholders' in December- 2nd or 3rd (time to suit you) at the Gherkin. It would be great if you were able to attend, I am sure the event will be most enlightening.

Kind regards

Derek

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Begin forwarded message:

**From:** Derek Bradley <derekbradley@panaceaadviser.com>  
**Subject:** Re: RDR and the removal of trail. Catastrophe  
**Date:** 25 October 2013 15:01:18 BST  
**To:** "GARNIER, Mark (2nd Mailbox)" <mark.garnier.2nd@parliament.uk>  
**Cc:** Harriett BALDWIN <harriett.baldwin.mp@parliament.uk>, "tyriea@parliament.uk" <tyriea@parliament.uk>

Hi Mark

Thanks for the mail. You asked me if I *could* "email some ideas regarding what I wanted to see resolved and how to address it (that we aren't already looking at)".

Well, here goes:

I am very aware that from the FCA's perspective, and that of the TSC, the regulatory focus is always, rightly, going to be on consumer detriment. But, if FOS figures are a guide, adviser-caused consumer detriment is very low indeed, something you and your colleagues are well aware of.

However, with the focus seemingly being solely on the consumer, some foreseen warnings, while they are clearly being flagged, will continue to be ignored and as a result matters will only get worse.

Our adviser community is seeing a system that has worked very well for the mass market for very many years being swept away.

Trail removal will ultimately destroy many possibilities of aftercare and service to many adviser firms' customers (low end savers as you refer to them). And by that, I also mean the resulting further reductions in adviser numbers as the quest for the perfect zero risk financial services consumer world will be met by the perfect regulatory storm.

Trail removal is part of that storm seeding possibility and the initial removal date of April 2016 is approaching fast.

I am not sure that you and your colleagues are aware of this or the potential accompanying consumer detriment and commercial devastation that will, without doubt, follow if the problem is not addressed now.

Here are some points to consider regarding trail, it's origin and importance to both advisers and their customers/ clients:

- · Trail or renewal commission formed part of adviser remuneration in most pre RDR contracts
- · Trail is a contractually binding adviser expectation.
- · It is managed and administered mostly by provider legacy computer systems that have not got an ability to 'menu-ize' in retrospect without huge cost and that is not seen as a viable or worthwhile spend
- · Trail is small in individual monetary amounts, paid subject to contracts remaining in force to an end date, maturity or claim event
- · Not all advisers took 'initial commission' preferring to build up value and income streams from an increasing number of small but regular monthly payments, again paid subject to the contract remaining in force to an end date, maturity or claim event.
- · The accumulated value of trail, regular and/or renewal commissions, accrued over many years through many individual client

policies, provides a recurring and stable income stream to the firm, in addition it creates the embedded value/ worth in an adviser business.

- Trail was/ is a substantial part of adviser retirement or exit plans too as any business owner would look to sell this income stream along with the goodwill of their business.
- Up to and beyond RDR, firms were buying or selling businesses based mostly on the assumption that this income source will continue for many years to come.
- The advantage to acquiring firms is that it provides an immediate revenue stream, increases their client bank, and the recurring trail income they have acquired can often be their primary means to fully fund the buyout.
- Disadvantages to sellers are that the purchase money is not paid up front, often being paid over a number of years, typically 3 and has little security for the unpaid value.
- If the acquiring firm collapses in that time (looking forward) due to the discontinuance of trail, the total seller's consideration may not ever be seen in full.
- More disadvantages lay ahead for the buyer if that trail revenue ceases, the value the firm thought they had paid for in their acquisition is reduced or disappears.
- But they still have a contractual obligation to buy a business, over a 3-year term for example, that they can no longer afford.
- 

Now we must consider the 'knock on' problems relating to the removal of trail commission, this I believe has not been understood as fully as it should.

- Removal of the accumulated value of trail, regular and/or renewal commissions (that were the embedded values in an adviser business) by design, default or regulatory intent destroys the value of that firm to the extent that it no longer has any worth and so nobody will want to buy it. What happens to their clients if the firm simply closes down?
- Removal of trail commissions could mean that the acquiring firm is unable to pay the full consideration or in some cases none of the consideration.
- The loser in this scenario is the seller, their resulting loss could be huge.
- The outcome could be that the seller then sues for the unpaid monies due to them, but, the buying business may be so unsustainable, for lack of this trail, that it closes as it cannot meet its liabilities any longer. What happens to their clients?
- Acquiring firms may have paid in full for the businesses they have acquired, but no longer get the monthly income trail- a big cash flow hit. This could mean it can no longer meet the regulatory fees and other costs involved in running the business. What happens to their clients?
- The consumer is a very big loser too in all this. They may prefer that trail pays for ongoing servicing and advice. Removal would mean they would then have to pay a fee that they may not wish to or be able to afford to do. What happens to them?

Possible outcome, the perfect storm.

- The loss of trail, a regular income flow, could make many adviser businesses unsustainable; in fact the effect would be catastrophic if our poll of nearly 900 advisers is a good indicator.
- Many advisory businesses have closed in the run up to RDR leaving many orphan clients, mostly those that RDR survivor firms would not service as they would not or could not pay fees that trail commissions have often, historically subsidised. You are focused on this problem but it will get a lot worse before it gets better.
- Fewer adviser firms mean higher regulatory costs for those that are left.
- It also means that the liabilities of those firms that have closed down will pass to the FSCS for any miss selling issues. (For advice issues over 15 years old, the FSCS does not provide cover, something I mailed you about a while back. Particularly strange when looked at with the long-stop)
- Those firms remaining in business will ultimately pay for any claims against these firms and their PI costs will hike, if they can get it.
- Many of those surviving firms may find, due to increasing regulatory costs that they can no longer pay those levies and close down. What happens to their clients?
- The result, more burden on the FSCS and higher costs for the firms left is the outcome
- And fewer firms to fund the FCA and FOS regulatory costs
- 

But the biggest losers of all could be network clients. Networks are also under pressure from the outcome of the recent FCA paper on inducements.

They are coming under big financial pressures as the impact of FCA inducement removal could run to millions a year from their cashflow.

To see their trail removed will mean the increased running costs falls on their members, who may not wish to pay, or cannot afford to pay, preferring instead to leave and start their own firm or move to another advisory firm- if they can or leave the industry.

Network collapses have a detrimental 'tsunami like' financial effect on those firms that are left and particularly in that brave new post RDR world, 'consumers' are left with nobody to turn to for advice, if they do not wish to or are unable to pay fees and in fact even if they do wish to pay fees.

So, the tsunami is coming, but are the regulators ready to deal with it, and will the consumer understand as it washes over them that what was being done in their name by regulation is the very thing that has made the disaster happen.

This requires urgent attention and a regulatory stop placed on the removal of trail to provide stability in a sector already under much transitional and evolutionary financial pressure.

Or will the tsunami, now on its way, result in no need for regulation as there is nothing left to regulate.

How to address it?

Panacea in association with NMBA, the educational arm of Simply Biz is intending to hold a Q&A event in November, ideally with yourself on the panel if you were able to find time. Keith Richards, now President of the PFS has also provisionally agreed to be part of this panel.

We would like to get more debate and additional views from the adviser community, which could then help raise more awareness and potentially help with getting a TSC review on the issue before it is too late

Thanks again for your time in looking at this, time spent understanding this important issue is vital to seeking a resolution for adviser and their customers.

Do you have any November time in your diary that could work?

Kind regards

Derek

Derek Bradley

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On 22 Oct 2013, at 17:22, "GARNIER, Mark (2nd Mailbox)" <[mark.garnier.2nd@parliament.uk](mailto:mark.garnier.2nd@parliament.uk)> wrote:

Hi Derek,

Happy to discuss but what do you want to achieve as a result of the discussion? I am pushing for a review into RDR implementation by TSC but beyond that, there is little more that we can do. There is quite a bit of evidence out there that there has been a number of foreseen outcomes and unfortunate reductions in service with a resultant advice gap for low end savers. A general chat, whilst nice to see you, without necessarily advancing this at all, would serve none of

us any practical use. Perhaps you could email some ideas regarding what you want resolved and how to address it (that we aren't already looking at)

M

## **Mark Garnier MP**

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**From:** Derek Bradley [mailto:[derekbradley@panaceaadviser.com](mailto:derekbradley@panaceaadviser.com)]

**Sent:** 22 October 2013 12:23

**To:** BALDWIN, Harriett; GARNIER, Mark

**Cc:** TYRIE, Andrew; Sarah Paul

**Subject:** RDR and the removal of trail. Catastrophe

Hi Harriett and Mark

I trust you are both well, I am sure you are busy.

I am not sure if you are aware of the impending catastrophe possibility for many small adviser businesses, even some large one's too?

If our current snap shot poll is correct, as at 11.30am on 22nd October with nearly 800 votes cast, almost 90% of those that have responded say it will be catastrophic.

Logic must tell anyone with any degree of intelligence that whatever the rights and wrongs of trail removal are, the destruction by retrospection of a huge chunk of intermediated distribution, it's revenues and value is neither right, fair or reasonable. And it is not good at all for consumers either.

[This link may assist.](#)

The ultimate conclusion for the UK consumer is fewer advisers as they can as a result of trail removal, no longer sustain a business built up over very many years, more firm collapses would place more burdens on the FSCS, who would then call on the fewer remaining firms for money that in turn would put more firms out of business because they would no longer have the ability to pay.

On top of that, firms that have acquired adviser businesses in the run up to RDR may find themselves unable to pay the full consideration as a result of trail removal, in turn leading to legal recourse to recovery by the sellers that then could lead to the collapse of acquiring firms as they are no longer able to meet their liabilities in full as they fall due.

I have cc'd Andrew Tyrie to this mail as I think it should be of great concern to him too, another unintended but sadly not unforeseen consequence of RDR.

Would either of you have any time to discuss?

Kind regards

Derek

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