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MONEY BOX LIVE

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DUGGLEBY: Good afternoon. Whenever we talk about investment on Money Box Live, the question which comes up time and again is where can I get good impartial advice and what happens if things go wrong? Now clearly there are remedies if you lose money through fraud, but if it's a case of poor performance, it may be far more difficult to argue that you didn't know what you were letting yourself in for. All advisers have to conduct a fact find to show they recommended appropriate investments for someone in your circumstances and took account of your preferences and, crucially, your attitude to risk. But not all financial advisers are independent. Some can only recommend products from one particular institution while others rely on a limited selection of providers. You need to know who you're dealing with. Sometimes mis-selling is so serious that the Financial Services Authority will intervene and the institution concerned will face a hefty fine and be required to compensate all those investors who've lost money - a recent case being Barclays Bank, fined £7.7 million with a possible liability of up to £60 million for customers who received unsuitable advice. On the other hand, maybe you've been sold an inappropriate product by an adviser who claims you did know what you were doing. What are your chances of succeeding if you take your case to the Financial Ombudsman? And what's the burden of proof needed? According to recent research by the University of Nottingham, a significant number of customers feel they have to trust their financial advisers because they have no choice. And what's the alternative? Execution only? That's fine if you're prepared to spend the time to do your homework and it's certainly far cheaper because fees and commission, which are again a bone of contention, can drastically reduce overall returns. So feel free to raise your concerns with my guests: Mark Meldon from independent financial advisers R.C Gray in our Wales studio; Steve Jenkins, Director of Financial Services for the Chartered Insurance Institute; and David Cresswell, Communications Director at the Financial Ombudsman Service. 03700 100 444 is the number to call. And first we have Patrick in Sevenoaks.

PATRICK: Hello.

DUGGLEBY: Hello.

PATRICK: I have a lump sum I would like to invest long-term, in terms of 5 or 10 years. I'm sort of trying to find my way through the jungle of finding impartial advice and deciding whether it's better to go for investment growth or an income.

DUGGLEBY: Okay, well your question really starts from the premise that you need to find somebody to advise you who understands pensions and the issues that are involved. Now, as with all these cases - and I'll start with you Mark - you've got to find out the facts first, haven't you? What is he trying to achieve?

MELDON: Yes, people need to tell me everything really. It's very important that their financial adviser has a good picture of their aims and aspirations, particularly their attitude to risk - i.e. how much money can they afford to lose if things go wrong for a year or two? And basically once the fact find's been done, you need to then have a chat about the client's hopes and expectations and see how far those can be met.

DUGGLEBY: Steve, people always approach financial advice from the standpoint of a particular thing they're looking at - in this case it's a pension - but it's not as simple as that. I mean it starts with cash in the bank. It can go through a whole range of other matters which they may just choose not to mention at the outset at all.

JENKINS: Yes, exactly. I think Patrick's circumstances are quite typical. More and more times now people are in Patrick's situation and it's extremely important to access advice that you can trust. And particularly when you're investing for the long-term, you want a relationship with an adviser that develops over a period of time. So take time out to interview two or three firms of financial advisers, look for recommendations from people that you know and that you trust. Good firms work from recommendations. And an alternative way of accessing financial advice is to access a very good website, findanadviser.org., that will give you a list of advisers who are qualified, follow a code of ethics in your postcode.

DUGGLEBY: What qualifications would you be looking for in the case of good pension advice because obviously you have to understand not just the market for the self-employed or the Self Invested Personal Pensions, things like that, as compared with company schemes. I mean many people sort of say well should I leave the company scheme or maybe the company scheme's closing down and all sorts of … It's a very, very volatile area at the moment, pensions.

JENKINS: Yes it is and I think that the requirements for financial advisers are currently changing where large numbers of financial advisers will have to (by the end of next year) hold what's known as a diploma qualification, which is broadly equivalent to the first year of a university degree. But one thing to look out for, which you might consider in situations like the one you've described, is to look for a chartered financial planner who will be a specialist in pensions and follow a code of ethics as well.

DUGGLEBY: Yeah because I mean over a lifetime, Mark, people can have a number of pension plans. You've probably had people who've brought you decisions made years and years ago and it's difficult sometimes to know, you know, what on earth it was all about. How do you sort of as it were pull them all together and bring them up to date?

MELDON: That's very true. I quite often … I'm given the box from under the bed full of old paperwork and I rather enjoy going through all of that. What I then do is produce a list of what they've got, a sort of audit if you like, and point out the pros and coins of the various bits and pieces they've got; and point out particularly that they will all come together when they come to take their benefits at 60, 65, 70 or whatever. It is quite a bit of work involved with that, but it's quite good fun and some people have got much more money than they think.

DUGGLEBY: So the point, Patrick, we're trying to make really is that the actual investments you ultimately end up with, or the wrapper in the case of a pension that you ultimately end up with, is quite a long way down the line. We've got to know a lot more about you and you have to find an adviser. And incidentally where can you go? Is there a website you can go to?

JENKINS: Yes, the website I described is www.findanadviser.org.

DUGGLEBY: Right. And that will then give advisers in the area in which you live?

JENKINS: You put a radius from your home and it'll tell you how far advisers are and it'll rank them by qualifications.

DUGGLEBY: Yeah. I did actually look it up last night and it's quite a good website, I must say. You've got whether they've got a diploma or a certificate or whatever it is and the good ones have got little sort of shieldy things on their lot. You wanted to come in here just briefly, David.

CRESSWELL: I was just going to say one other thing that is really good about Patrick getting in touch with us this afternoon is also the clue, even before you start thinking about which financial adviser to go to - actually do your own homework. Ask questions, listen to shows like this, read the papers and shop around. It's that old cliché about if you're buying a washing machine or going on a holiday, you probably spend a lot longer doing background research and finding out from other people.

DUGGLEBY: I should say there are other websites. There's Unbiased.co.uk and our website will have links to all these for you if you want to check it out. But we must move on now to a call from Ludi in Methven. That's up in Scotland somewhere, I think.

LUDI: Yes.

DUGGLEBY: Your call.

LUDI: Yes, it is.

DUGGLEBY: Your question.

LUDI: Well I'm an 84 year old widow. I have been managing my own money up to date, but I'm slowing down a little. I have watched with great interest that several pensioners' funds seem to have been very badly mismanaged by shall I just say firms that should know, and my question is this. At my age - i.e. 84 - how should my money be divided in the sense that how much in cash, life savings - i.e. building societies and banks out of which I'm getting no income - shares and bonds, and I suppose do I add in property?

DUGGLEBY: Well you've got a number of questions arising there. I mean, first of all, advice for older people like yourself is quite difficult to do because, Mark, there are so many other considerations. I mean inheritance tax is obviously one perhaps important one.

MELDON: One of the first things that needs to be established is whether or not the will is up to date …

LUDI: Yes.

MELDON: .. and have you power of attorney in case something awful would happen to your health?

LUDI: Yes, I've done that.

DUGGLEBY: That's good.

MELDON: That's very good. I also think you would not necessarily need to concentrate too much on your time of life when considering an investment strategy.

LUDI: Yes.

MELDON: It's very much down to the way you view the world and what you want to achieve with this money and where it may end up when you're no longer here.

LUDI: Yes, that makes sense.

DUGGLEBY: An adviser for example, just chipping in here Ludi, they might ask you whether you have any favourite charities, for example. That might be … Well I think it would be a very legitimate question, Mark.

MELDON: Yes, it would.

LUDI: Yes, I have a favourite charity in my three offspring and my grandchildren as well.

DUGGLEBY: Alright. So you can see it's not just you that we're looking at.

LUDI: No, it's not.

MELDON: I would say to you that warm hands are often better than cold and you may enjoy actually, if you want to give some money away to your family members and charities, you might enjoy doing it whilst you're still alive.

LUDI: Yes, I've already done that.

MELDON: Oh well done.

LUDI: But, but …

DUGGLEBY: There is a saying that if you take your age - and you're 84 - deduct that from 100, so you could put 16% of your money at risk and 84% not at risk because at your time of life you don't want to take a risk. But I expect you'll now tell me that you're very happy taking a risk.

LUDI: Well yes - I like your humour - that is so, but also I rather think you have to because I need income from my assets. And obviously if I keep quite a lot in the so-called safe savings - building societies and banks - I'm now getting no income. So I've got about a third in shares and bonds that are being managed by two investment management funds and I've also got … I don't know whether I count this in - my house has no mortgage. It's only a very little one and you know it's not worth much.

DUGGLEBY: Yuh. At the beginning of the programme, Ludi, I said that an adviser has to offer appropriate advice to your circumstances. And I wonder before I get Mark to come in there, I want to ask David Cresswell from the Financial Ombudsman Services because I'm sure … Isn't that one of the first things you look at: was the advice appropriate and can it be shown by the adviser, if there is a complaint, that the advice was "correct" advice for the person concerned? And older people, very careful.

CRESSWELL: Well indeed. With older people generally, we have to be a lot more sensitive about not making automatic assumptions. Some older people are going to be quite vulnerable. Others obviously, like Ludi, are incredibly empowered and knowledgeable about their own circumstances. If there is a dispute, the point is the Ombudsman will have to strip away hindsight. Often the problem will actually emerge as "I'm disappointed with performance. This isn't what I expected", and what we have to do is find out what actually happened at the time the advice was given. What did the adviser ask you, what did the consumer tell them about their own personal and financial circumstances? And it's all really about a relationship and a majority of the complaints we see about financial advice are about soured relationships - relationships that have failed because the two sides haven't really been frank and open about what it is they're about.

DUGGLEBY: So your first job then, Mark, is to get on with the customer, isn't it?

MELDON: Yes it is, and if they don't like me - or indeed vice versa - then we shouldn't have a professional relationship. But I think it's very important to try and build some empathy. I have many clients I've dealt with for 20 years and more. And I mean going back to the question though, I mean one thing you could do with substantial assets is actually draw down capital. Now I appreciate that's a very hard thing to do. I have a 90 year old grandmother and she certainly wouldn't want to be spending her capital even though she knows that's not very rational, a rational thing to say. I mean you could actually argue you're unlikely to run out of money over the next 20 odd years.

DUGGLEBY: Yes I think people should certainly … People are very worried about only getting 2% or whatever it is or 1%. But I think one of the members of the Bank of England Monetary Policy Committee made himself extremely unpopular when he said well just spend some of your capital. It was oh you can't do that. But actually it's silly not to spend some capital if you're depriving yourself. I mean the distinctions between capital and income are something which people seem unduly sensitive about sometimes.

MELDON: They do. There was a little product - the old-fashioned purchase life annuity - that when you reach 84 is actually quite attractive if you are prepared to sacrifice some capital for income. And the income from that's quite tax efficient.

DUGGLEBY: What we're really doing for Ludi, and hopefully other listeners are taking it on board, is we're kind of tossing the problems around. We're not coming up with a specific investment for these because you can't do that. You can't say well invest your money into x, y, z, Steve, because that is not the purpose of the exercise. The purpose of the exercise is to say have we approached this person's problems? We'll listen to what their preferences and things are and you know have we broadly got it right?

JENKINS: Exactly. I think the first thing, as Mark was saying earlier, in a relationship with a financial adviser both parties need to get on with each other. They need to have open, clear communications with each other. And then at any point in time a customer is always in control of that relationship.

DUGGLEBY: Right, we'll move on now. Hugh in Bracknell. I'm sorry, I should have said … I'm sorry, Hugh. Yes, you come in now. Sorry, Hugh?

HUGH: Yes, I'm here.

DUGGLEBY: Yes, your call now. Sorry, I slightly muddled up the order, but you're next.

HUGH: Oh okay. I have a number of ISA investments and a couple of OEICs.

DUGGLEBY: OEICs, yes.

HUGH: I have a financial adviser and he's served me very well over the years in getting these investments. Some are giving me income, some are just investments. And now he's asked me to move all these into what is called a wrapper. And in doing that, it involves making transfer authorities, credit transfers and re-registrations, and it seems to work down to the fact that my investments are going to be taken out of the market for 6 to 8 weeks in doing this move; 2% of everything goes into an account to make sure that their fees can be paid; and this is a company outside of the one that he works for and there would be extra charges. And it seems like a layer of administration that I don't need at this stage. He has tried to describe it and explain it to me, but I'm afraid I find it just too complicated.

DUGGLEBY: So do I detect in your voice a certain suspicion that this is being done for the purpose of generating additional fees? Or are you …?

HUGH: Well I wonder about that and I would like to know what the feeling is.

DUGGLEBY: Well I mean there is one point to be made generally about investments and that is they have an awful lot of initials and there's an awful lot of sort of … OIEC I think is an Open Ended Investment Company.

HUGH: Yes.

DUGGLEBY: As for what the difference between that is and an Exchange Traded Fund and this, that and the other, I mean I'm not surprised people don't understand all these abbreviated initials that you get on products. But as for what I call the pulling together. Steve?

JENKINS: Yes, I think that you sound apprehensive and you sound cautious, in which case you shouldn't do at this point in time what is being recommended unless you're fully clear about what's in it for you. And it sounds as if you've had a long-term relationship with this financial adviser, which I would say is a good thing, so don't be afraid to ask. You know even the terminology, wrap - I mean what does that mean? And I think you need to be very, very clear about what the advantages are for you as far as this transaction is concerned. It may be in your interest, but you need to be clear in your own mind as to why that's the case.

DUGGLEBY: What question would you ask, Mark? I mean would it be you know please explain to me? Well obviously he has, but it's not perhaps been fully understood. What do you do next?

MELDON: I sympathise because it is difficult. A wrap is really just a computer programme, an administration box into which all of your various assets are put in order to make things like online valuations very easy for your adviser and for you and they do offer convenience, but they do add a layer of charges. Your point about being out of the market is probably wrong, I have to say, because normally the existing investments would be transferred what is called 'in specie' - in other words they're not sold and re-bought - so you wouldn't be out of the market for any time at all.

HUGH: Ah, I think some of them are not that. I saw 'in specie' somewhere, but there are different ones from that. So it does actually say in the documentation that they may be out for that time.

DUGGLEBY: Well are you incidentally thinking of having a discretionary manager on this portfolio or what?

HUGH: No, it would stay with my IFA.

DUGGLEBY: Yeah, but is the IFA making recommendations to you which you then have to accept, or are you actually allowing it to be managed on a discretionary basis?

HUGH: Oh he talks to me and we decide between us.

DUGGLEBY: You decide between you. It's just that some people at a certain point of time don't even want to make the decisions themselves …

HUGH: Ah!

DUGGLEBY: … which again can lead to problems. That's not being suggested.

JENKINS: I think just one point to stress is that if you're unclear about what the terminology means, ask the question and ask for an answer in plain English. That's so important.

HUGH: The sort of question I might ask is to write a letter and say how does this benefit me?

DUGGLEBY: Yes, absolutely. Yes, sounds good.

JENKINS: Very good question.

DUGGLEBY: Yeah. Alright Hugh, thank you for that call. We've got a question, an email from Terry in Saxmundham in Sussex, and he says, 'I've used an independent financial adviser several times in the last 5 years for a buy-to-let mortgage for an annuity and for an ordinary mortgage, and each time I couldn't get the IFA to disclose their fees. When asked, they replied that their fee was included in the commission. Why are IFAs not upfront about their fees? What are they trying to hide?' So, Steve, you were about to wax eloquent on that one.

JENKINS: Well I think that good IFAs aren't anything other than upfront about their fees. And in fact the regulation is changing, so very much moving the control - if I can describe it that way - in favour of the consumer. From the end of next year, the nature of the remuneration that is paid or the costs that are paid to financial advisers will be decided between the end customer and the adviser themselves. So that puts the adviser … sorry the customer very much more in control of all of this, and so the situation that Ian experienced won't be the case going forward, and good advisers should be very upfront about their costs because they'll want to demonstrate value for the service they provide.

DUGGLEBY: A comment from you on fee based versus commission generation, Mark. I presume you're fee based, are you?

MELDON: We are fee based. We do accept commission on certain products …

DUGGLEBY: Which you rebate against …?

MELDON: Yes, we do do that. I'm very much in favour of fees, although I am worried that the middle market, the middle classes if you like, might be cut out of the independent advisory market in favour of so-called restricted advice which is coming in, which may or may not prove to be a problem. But I fully intend to remain independent because I can then have an absolutely clear conscience that I have offered a whole of market service and tried my very best to give the right advice to clients, which I'm sure most of my colleagues in the industry do.

DUGGLEBY: Do your clients though when you come in … I mean I don't know what your precise fee structure is, although I don't see any reason why you shouldn't tell us …

MELDON: About £100 an hour.

DUGGLEBY: Okay, well some people are going to freak out at that.

MELDON: They are.

DUGGLEBY: What on earth are you going to do for that?

MELDON: They are. But I think as qualifications stand, get higher and higher, I suppose our fees would be a bit more comparable with people like accountants, although at the moment of course accountants are far more highly qualified than most financial advisers. Not as high as solicitors because they're dealing with slightly difficult things. But people, I think if they want proper independent advice, are going to have to think about paying up. Now I'm not talking about thousands of pounds. That's where the commission system's gone wrong because people with larger sums have paid vastly more in commission than necessary.

DUGGLEBY: As John in Bristol has pointed out to us. He says you know the number of commissions they appear to get - initial commission, running commission, rebated commission, follow-on commission, annual commission. You name it, they get it.

MELDON: Yes, it confuses me as well sometimes, I have to say. But most of those things will be swept away for people taking advice come January 1st 2013 when the rules change. That can only be an empowering thing for the consumer.

DUGGLEBY: David?

CRESSWELL: I think we've all been brought up to be very polite about money and I think a lot of listeners to this programme will think somehow or other it's better to use euphemisms like 'rebated commission' and 'remuneration. Certainly from the Ombudsman's perspective, thousands of disputes we see would not have happened if the consumer had just had the confidence to say "And what do you get out of this deal?"

DUGGLEBY: Is there any figure, Steve, that we could put on … If you say took £50,000 to an adviser, is there any sort of benchmark to say well you'd probably be paying about 5% of that money? I mean or is this just pie in the sky - there is no limit or no sort of benchmark figure you can put up?

JENKINS: I think it's difficult to put an exact figure on it without knowing what you're getting for that cost. I think that's the important point.

DUGGLEBY: Is that because it's much easier to say advise on an ISA than it is on a pension?

JENKINS: Correct, exactly that. So if by feeling confident to if you like select an adviser and be very, very clear about what the adviser presenting their credentials, presenting their service, presenting what they're going to do for you, you can then take a judgement as to whether the costs that they're going to charge you are value for money.

DUGGLEBY: Okay. We'll move on now to Ian in Dulwich.

IAN: Hello.

DUGGLEBY: Hello Ian.

IAN: Yes, my question is we're about to set up a trust fund for our 27 year old daughter, so that her £200,000 settlement for a traffic accident claim doesn't put at risk her state disability benefits. Now one firm of independent financial advisers who specialise in personal injuries say it'll cost £500 to set up a bear trust, but they'd waive this fee if we use them as the financial consultants for investing, which we want to do conservatively for a mixture of income and capital growth.

DUGGLEBY: Okay, well let me just interrupt you there because this again introduces the problem of two different areas of expertise needing to be applied to this problem. And very interesting you actually mention benefits because, Mark, that's something which I guess you have got to be wary of - compromising benefits.

MELDON: Very much so, and in difficult and sad situations such as this, you do need to go to a specialist adviser. I'm a generalist, but I do know the right kind of people to ring up and ask and point you in the right direction.

DUGGLEBY: So you'd be quite upfront and say, "Look, it's not my area of expertise, but you know I can help you, point you and get you into the right place"?

MELDON: *(over)* Absolutely. Yes, "I know the right people that you can go and see and talk to or they will visit you", etcetera, etcetera. I do think there's a potential conflict of interest here though. I mean it would actually cost rather more than £500 to set up a disabled person's trust if you went to a suitably qualified solicitor, for example. I don't think it's right that that fee should be subsidised by any investment advice. They're two completely separate issues and I think you should ask that firm to separate them out completely, and I would urge you to take specialist legal advice before doing anything at all.

DUGGLEBY: Again I sort of sense again problems could arise here which might find their way to your desk, David?

CRESSWELL: Well indeed. And I was going to mention on an earlier call actually don't forget too clearly I come from a gloomy corner because all I see is where it's gone badly wrong. But there are limits, financial limits that can prevent you going to the Ombudsman; or indeed, if things really go bad, in getting compensation from the final safety net. Broadly those limits are going to be £50,000 or £100,000. But certainly when you're talking about half a million pounds, you're not going to get the same level of protection, so you might want to think about spreading your risks, not putting all your eggs in one basket.

DUGGLEBY: Get the framework in place first. And only when that's to your satisfaction, do you then turn for the specific financial advice. Is that what we're saying on the investments?

CRESSWELL: *(over)* That's what I would say. Definitely.

DUGGLEBY: Yes. While you were talking about that, an email has just come in from James in Bradford, David, and he says, 'Can I ask your ombudsman how long after any perceived mis-selling are you able to produce a claim?' Pursue a claim, I'm sorry?

CRESSWELL: Pursue a … It's quite a long time in fact. In law, it's 3 years from the event you actually complained about. Or, if it's longer, 6 years from when reasonably you should have become aware of the problem. And for us, that's the one we look at most. In fact more people fall foul of another little rule, which is just once you've complained to the firm, you've only got 6 months then to come onto the Ombudsman if you're still not happy. So actually that's the rule that most people might trip over.

DUGGLEBY: And how long do you have to resolve a complaint?

CRESSWELL: How long do we have?

DUGGLEBY: Yes, how long do you have when you're starting to look at it? Do you sort of reckon to deal with it on average at the moment over …?

CRESSWELL: Oh right. Over half of cases now take less than 3 months. But if you want to appeal it all the way to an ombudsman, which is like the you know the

Supreme Court as it were, that can take up to a year. And pension complaints and portfolio management complaints are more likely, because of the sums of money involved, to go all the way to an ombudsman.

DUGGLEBY: Sheila in Cobham, you've waited very patiently and it's your turn now.

SHEILA: Oh thank you. Four years ago when I was 62 and already retired, I had an investment bond which was maturing worth about £100,000. It had produced income only and I wanted something that would give me some capital growth as well. I went to my high street bank who produced a financial adviser who in writing confirmed I was a cautious investor, and it had the usual disclaimers which were you know things can go up or down and past performance is no guide and …

DUGGLEBY: *(over)* We're a little short of time, Sheila. Am I taking it that this investment did not, you think it didn't meet your needs?

SHEILA: *(over)* No. I've lost about 40% of my investment. It was invested in a property trust fund.

DUGGLEBY: Well we've only got a minute or so left. So first of all, I'll ask Mark. The word 'cautious' always kind of rings bells with me. What does it mean?

MELDON: Yes it does. And really just very quickly and specifically, to put all of your eggs in the property basket was a very fashionable thing to do about 4 or 5 years ago and of course it's not worked out very well. I think you need to go back to the person who sold you that investment, complain about the sale, and ask them about things like diversification, eggs in baskets, that sort of thing because it doesn't seem to …

DUGGLEBY: *(over)* And here of course we need to look at the correspondence and things like that if it ever ended up on your desk, David.

CRESSWELL: That's right. And complain formally to the organisation that you're not happy with and then you have up to 8 weeks to put things right. If you're not happy, they have to tell you about your right to come to the Ombudsman.

DUGGLEBY: That's called a letter of deadlock, is it?

CRESSWELL: That's right. But don't sort of wait for deadlock. Just wait for 8 weeks to pass and then come to the Ombudsman.

SHEILA: Right.

DUGGLEBY: You have to show though it was an inappropriate investment for you, bearing in mind what they should have known.

SHEILA: Yes, they have already said that property is a cautious investment. That's the response I've had.

DUGGLEBY: Okay. Sorry, we're running out of time, but I mean property is a cautious investment, panel? Yes or no?

JENKINS: Well it used to be, it used to be.

DUGGLEBY: I would have thought it was sort of you know quite risky in some respects.

MELDON: Absolutely.

JENKINS: Cautious is a bit of an Alice in Wonderland word. It can mean whatever you want it to mean.

DUGGLEBY: It's like the words 'balanced' and 'managed', which I believe are going to be sort of under review as to exactly what does it mean; what should I have expected? And we're back to the same thing that we started with, which is ask the adviser what he means and make sure you get an answer. Many thanks to the panel: David Cresswell, Communications Director at the Financial Ombudsman Service; Mark Meldon from the independent financial advisors R.C Gray; and Steve Jenkins, Director of financial services The Chartered Insurance Institute. Don't forget you can log onto our website, bbc.co.uk/moneybox, where you can listen again, download a podcast, let us know your views, in due course read a transcript of today's programme. Paul Lewis will be here with news and comment in next Saturday's Money Box, and for the next few weeks Paul will also be here on Wednesday afternoon to take your calls on Money Box Live.