

Consultation Response

FSA CP09/18: Delivering the Retail Distribution Review

October 2009

SUMMARY

- We are the UK's largest professional body for financial advisers.
- **RDR is on track to achieving objective of raising professional standards:** we think that implementing the professionalism proposals in the CP will help promote and improve public trust and confidence.
- **Clear support from members:** our research indicates continued support among financial advisers for raising levels of professionalism, despite the difficulties brought about by the recession. Many advisers are going beyond the likely new benchmark qualification and heading towards chartered, indicating a sector move to professionalism on its own accord.
- **Uplift in Diploma exam take-up:** There has been a major uplift in the numbers of advisers who are already on the way to the new benchmark qualification consistent with the FSA's 'no regrets' policy.
- **Need to clarify the benchmark level and size:** the FSA should be specific that the new financial adviser benchmark qualification should be set at QCF Level 4 *Diploma* (i.e. 37 credits or 370 hours of study time). We believe that this would be the most appropriate level and size of qualification to deliver to the public a demonstrable step-change in adviser standards. The FSA must declare that the required level is QCF Level 4 Diploma.
- **Need for a robust alternative assessments scheme:** we have submitted detailed proposals to the FSA on a model for this which we believe must be equivalent to the level 4 exam as well as have a robust process to ensure there is consumer confidence in its rigour. We are currently working to develop these proposals in a practical form.
- **Timetable is challenging but achievable:** we believe that the professionalism aspects are achievable by 2012 though we suggest the FSA maintains a regular check on the overall progress of the progression towards the benchmark qualification.
- **Proposals for a Professional Standards Board (PSB) are central** to unlocking the door to increased public trust and confidence. We look forward to contributing in more detail to the forthcoming FSA consultation.
- **Need for a mass-market advice solution:** it is important that there is a workable solution for the mass market in the RDR proposals.
- **The Money Guidance project will play a vital role** in supporting future consumer confidence through helping to guide consumers 'dipping their toes' into financial services for the first time or with very basic, but important, needs.
- **We think that while the RDR project has made progress, its success will be undermined unless the results are clearly explained to the public so that they can understand and get the full benefit of the changes.** The regulator should work closely with industry, consumer groups and media to ensure there is a clear, coordinated message to the public.

Our Overall Views: An Opportunity to Raise Public Trust and Confidence

RDR is on track to achieving objective of raising professional standards: we think that implementing the professionalism proposals in the CP will help promote and improve public trust and confidence.

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|---|--|
| <p>We include the UK's largest grouping of IFAs</p> | <p>The CII is the world's leading professional body for insurance and financial services. Our 93,000 members are committed to maintaining the highest standards of professional and technical competence and ethical conduct. This includes 25,000 members of the Personal Finance Society which is the UK's largest grouping of financial advisers and related roles. We promote the highest standards of professionalism for the financial services community.</p> |
| <p>We support the proposals to raise professional standards</p> | <p>We welcome the opportunity to respond to the Retail Distribution Review consultation. Levels of qualifications and behaviour across the market are being raised, and we believe this will bolster the public's trust and confidence in the sector.</p> |
| <p>The public is expecting more</p> | <p>In all aspects of business, the expectations of the public are rightly increasing. In an age where customers can find information and guidance instantly, the time of blind deference to 'the expert' is gone. Financial services has much to learn from the other professions in developing professionalism, however great strides are being made.</p> <p>Practitioners providing services are expected to demonstrate the highest levels of knowledge, understanding and ethical behaviour. Not only are they expected to have this and keep it updated, but they are also expected to behave in the manner befitting a professional.</p> |
| <p>The job at hand is ambitious but achievable</p> | <p>The timeframe for implementing these proposals is ambitious and the required step-change in terms of the new benchmark will be exacting for some. This inevitably implies considerable upheaval and change, which might be distracting and unsettling to our members. However, we believe that the transition to a more professional era can be achieved.</p> |
| <p>We will play our part in supporting the market.</p> | <p>We will play our part in supporting the market which is already demonstrating remarkable progress. Our approach is threefold:</p> |
| <p>We hope to embed greater professionalism...</p> | <p>1. Build industry consensus towards increased professionalism: by developing solutions and helping to guide our members through the process of change.</p> |
| <p>...that builds consumer and industry confidence...</p> | <p>2. Build a more confident and trusted industry as viewed by the profession and customers: our work to develop our proposals for professionalism and a reformed professional body model will continue, as will our efforts to develop practical measures that help our members and firms manage the transition. Many are already embarking on this journey and we will support them on their way.</p> |

- ...which in-turn grows the market.
3. **Create a well-performing financial advice market:** we see the prize of the RDR, over the long term to be a large and well performing market whereby consumers have ready access to high-quality and competitively-priced financial advice.

Professionalism: Avoiding Qualification Arbitrage

We call on the FSA to clarify this to ensure there is certainty in the market by declaring that the required level is QCF Level 4 Diploma.

- We support raising the adviser benchmark qualification
- We believe the proposals set out to raise the minimum qualifications benchmark to QCF Level 4 Diploma for all those giving investment advice is a sensible step. Many advisers are already qualified to the new benchmark level, while many others are working towards it to be fully “RDR-compliant” by 2012. We have already set out a suggested blueprint for what the qualification might look like for new advisers from 2010 onwards.¹
- But it must not be a *ceiling*
- However it is important that in setting a benchmark, this does not become a new ceiling. We are encouraged that many advisers are already moving beyond Level 4 and the growing cadre of Chartered planners (now 1,800 strong) is evidence of this.
- However we are concerned that there is still uncertainty about the qualification standard
- We are concerned that despite efforts to develop an exam standard for the new financial adviser benchmark qualification, there is still a risk of arbitrage between awarding bodies. This grey area needs to be resolved.
- The FSA should specify that the new financial adviser benchmark qualification is at QCF Level 4 *Diploma* (ie at least 37 credits or 370 learning hours). Clarity on this area would provide the FSSC with the appropriate guidance to design the qualification at the right **level** and **size**.
- It is quite critical that the benchmark qualification is clarified in terms of both **level** and **size**
- Under the new Qualifications & Credit Framework, qualifications are distinguished by two essential elements:²
- **Level of difficulty:** from entry level at the bottom to Level 8 at the top; and
 - **Size:** in terms of the amount of time required for the average learner to complete in credits (1 credit = 10 learning hours), expressed from Award (1-12 credits) to Diploma (37 credits or more).
- Otherwise a qualifications arbitrage could occur...
- It is critical that the new benchmark qualification reflects *both* these elements, otherwise different awarding bodies could offer different size Level 4 qualifications.

¹ See our paper *The New Benchmark: A Model Advice Qualification Post-RDR at QCF Level 4*, CII Papers in Professionalism, 2May 2009 <http://www.cii.co.uk/downloaddata/PPLLevel4FINAL29May2009.pdf>

² Please see Appendix 2 for more information.

The new standards being developed by the FSSC does currently suggest a qualification of at least a Diploma. However this would be without regulatory stipulation. So there is still an opportunity for awarding bodies to offer a syllabus and assessment at a lower level, such as a Level 4 Certificate.

...which would not be in the public's interests

- This would effectively encourage awarding bodies competing on price to offer lower standard qualifications.
- Such an outcome would not be consistent with the widely-trailed "first year of a degree equivalent" message cited in the consumer financial press. It would not be in the interest of consumers, nor does it provide the universal step-change desired by the FSA.

We think **QCF Level 4 Diploma**, i.e. 37 credits or 370 learning hours, is the most appropriate for those giving investment advice envisaged in the consultation

We firmly believe that a QCF Level 4 *Diploma*, (i.e. minimum of 370 study hours/37 credits) is appropriate for all advisers authorised to give retail investment advice, as defined within the consultation paper.

- This is because the amount of study required for advising on the wider definition of 'retail investment products' and associated services demands a qualification at least at this breadth.
- It is also important that the same qualification should be required even where a firm is offering restricted advice.
- If advisers are permitted to advise in a the same market, we would expect the same standard of qualification for all.

We would also expect the content and syllabus to be sufficiently comparable across the market so that awarding bodies could compete on price without degrading standards.

Achieving the Step-Change: Support from the Profession

- **Our research indicates continued support among financial advisers for raising levels of professionalism, despite the difficulties brought about by the recession.**
- **Many advisers are going beyond the likely new benchmark qualification and heading towards chartered, indicating a sector move to professionalism on its own accord.**

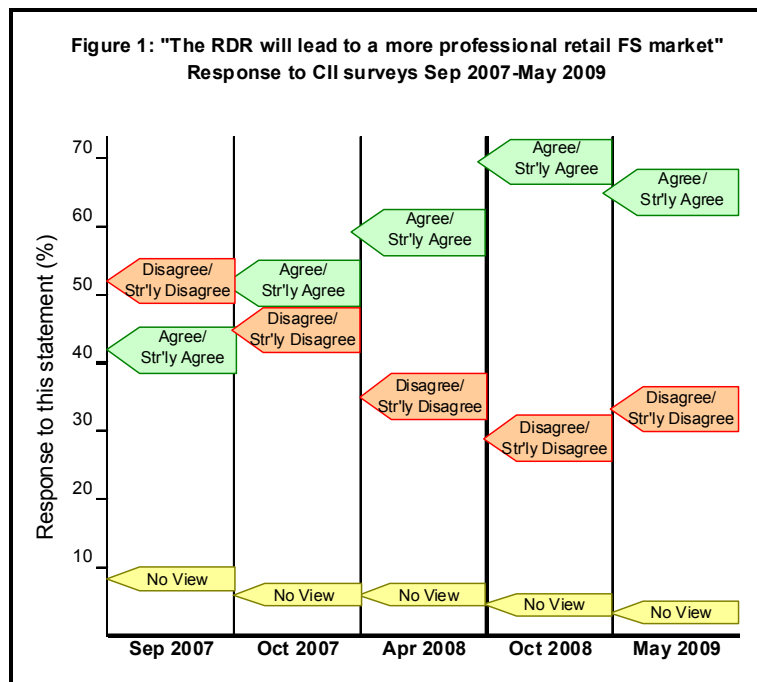
Our surveys indicate increasing member support for the RDR professionalism package

Support among financial advisers for raising levels of professionalism remains strong, despite the difficulties brought about by the recession, as indicated in the latest of five surveys of CII/PFS members carried out by Ernst & Young most recently this past May.³ The main findings include:

- 73% say they anticipate achieving further qualifications
- 66% agree that the minimum qualification level for advisers should

³ The survey conducted in May 2009 involved over 700 PFS and CII Faculty of Life & Pensions members. The full survey report, as well as full reports from the previous CII RDR surveys (conducted in September and October 2007 and April and October 2008), can be found on the PFS RDR website: <http://www.thepfs.org/pages/memberservices/RDR/professionalism.aspx#Survey>

- be QCF Level 4 or equivalent
- 89% agree that qualified professionals should have to meet continuing professional development (CPD) requirements.
- Many think RDR will enhance their career...
 - Most respondents (70%) think that the RDR proposals will not damage their future career prospects, with 35% believing that RDR will actually enhance their career. 30% fear that RDR will leave them worse off.
- ...and the proposed benchmark level is right...
 - While enthusiasm for compulsory Level 4 qualification is high, most believe that Level 6 (honours degree level) is too high a requirement at this time while 62% believe that qualified professionals should have to hold and display a valid renewable practising certificate.
- ...and that the RDR will create a more professional market
 - Support for the overall RDR project of creating a more professional financial services market has also increased since the project began (see Figure 1).
 - Other findings clearly suggest that advisers see a link between qualifications and quality of service. This is in line with other surveys.



- Many advisers are en route to Diploma...
 - A more recent PFS survey conducted in September asked advisers at different levels their progress towards further qualifications:
 - Two-thirds of Certificate-level advisers say they are en-route to the Diploma qualification at this time (Figure 2 below).
- ...and many others wish to go further
 - Over 40% of current Diploma qualified members are considering Advanced Diploma; and nearly half of Diploma qualified members ultimately aspire to Chartered status (Figure 3 below).

Figure 2: Over two-thirds of Certificate-level financial advisers are en-route to Level 4

PFS Membership Survey,
 September 2009
 Question sample: 467
 Certificate-level respondents

"What progress, if any, have you made towards the QCA Level 4 requirements of the RDR by 2012?"

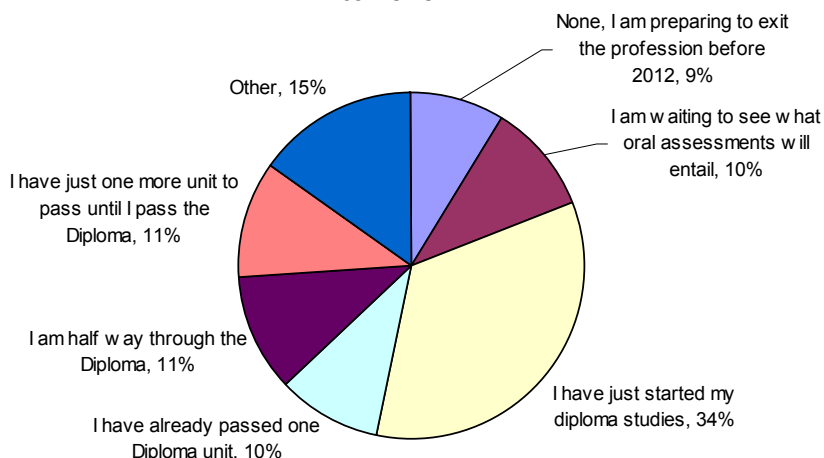
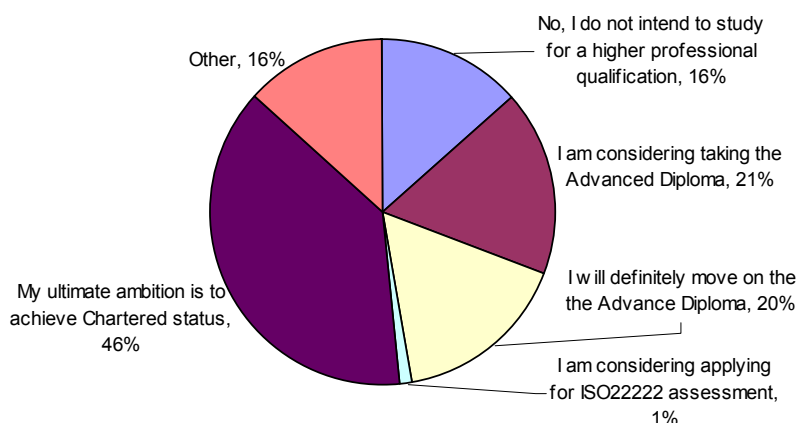


Figure 3: Over 40% of current Diploma-qualified financial advisers are considering Advanced Diploma, and nearly half aspire to Chartered Status

PFS Membership Survey,
 September 2009
 Question sample: 336
 Diploma-level respondents

"Are you planning to study for a higher professional qualification?"



Our research shows that most advisers will stay in the market post-2012...

...and they see a link between so they clearly support increased professionalism

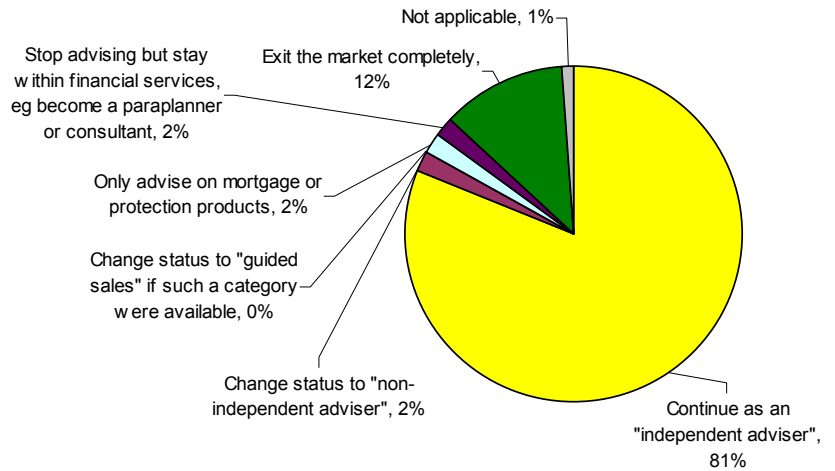
There is also a much more optimistic view about adviser numbers. The majority of advisers intend to stay in the market in some capacity when the RDR proposals are implemented.

- In our May 2009 survey, 12% of respondents say they would exit the market completely (Figure 4 below).
- However, our September 2009 membership survey, conducted after the FSA consultation paper was published, indicated that only 9% of Certificate qualified advisers are considering leaving the profession before 2012 (Figure 3 above).

Figure 4: Over four-fifths of current IFAs intend to maintain their status after 2012; and only 12% would exit the market

CII/PFS RDR Survey,
 May 2009
 Sample: 519 IFA respondents

"If you are an IFA (either directly or indirectly authorised), what are your intentions as a result of the proposed new requirements outlined in the FSA RDR Feedback Statement when they are implemented in 2012?"



“No Regrets” Policy: Practitioners Preparing for 2012

We are seeing a major uplift in numbers of advisers who are already well under way towards an Ofqual-recognised Level 4 qualification consistent with the FSA’s ‘no regrets’ policy.

We are seeing strong take-up in Diploma level exams

Currently about 14,900 CII members hold qualifications at Diploma in financial planning or above.⁴ As of 30 September 2009, the CII has received over 21,000 bookings for Diploma in Financial Planning subjects in 2009.

New candidates are increasing

A large number of first-time diploma candidates have been sitting the exams, proving that many are beginning to study for the new benchmark levels.

- as of 30 September, 6,900 individuals have registered for a Diploma subject for the first time during 2009; compared with 4,500 throughout 2008.
- of those currently sitting the examinations, 73% will complete the qualification within two years, and 88% will do so within two and a half years.

More people are going beyond the proposed new benchmark demonstrating a commitment to professionalism

We are seeing considerable momentum towards increased qualifications beyond the new proposed benchmark of Level 4.

There are just over 1,800 Chartered Financial Planners (up from 1581 at the start of the year). We estimate a further 4,200 candidates are currently en route to Chartered Status. All this points to a commitment to greater professionalism.

As of 30 September, the CII has received 2,800 bookings for Advanced

⁴ NB: not all PFS members qualified to this level are advisers as defined in the RDR.

	Diploma in Financial Planning subjects. Advanced diploma exam bookings are up 20% year-on-year since 30 September 2008.
Large corporates are also offering schemes and financial support.	There is also significant corporate momentum, with the emergence of a number of corporate schemes offering both financial and learning support. We continue to work with a wide range of providers, network and service provided and others to promote such support.
However the industry is aware that implementation will not be easy.	<p>Despite this progress by members in attaining RDR-compliant qualifications, there are still mixed views among practitioners about the timescales for implementing the RDR by the end of 2012. According to our own research, the qualifications element is viewed by most as tough but achievable:</p> <ul style="list-style-type: none"> ▪ 28% of the advisers surveyed believe that the timings are unlikely to be achieved; however ▪ 30% believe that they are tough but realistic; and ▪ 21% think they will be achievable by most and very testing.
The timeframe is tight but achievable for those who plan ahead.	Much of this inevitably reflects individuals' own positions. This reinforces the importance of advisers starting study as soon as possible and using as much support as is available to support the through the exams process.
The FSA should regularly assess progress.	While the timeframe is tight and achievable for most <i>who plan ahead</i> , we recommend that the FSA regularly assesses industry progress towards the goal for the entire adviser population. Our samples are based on our membership which necessarily reflects a proportion of the adviser population with a higher level of commitment.

Clarity on Transition Arrangements for Trainee Advisers

There is some uncertainty over the status of trainees.	Despite efforts to put the market at ease by developing transitional arrangements for advisers currently in the market, there is still uncertainty over transition arrangements for trainee advisers. We are informed that some firms have ceased or deferred recruitment programmes until clarity is provided on these issues. This is not helpful for a profession that needs to grow.
We know about trainees recruited after June 2010	The FSA is clear on the position of new trainees recruited after the end of June 2010 with the stated requirement for completion of the new qualification before being considered for competence status.
But when will they need supervision?	<ul style="list-style-type: none"> ▪ We would however like confirmation that new trainees (post 6/2010) will be able to advise under supervision with 'part 1 – FS markets, regulation & ethics' of the new qualification. ▪ Clarification of the qualification requirements and permissible activity of new trainees recruited from now and up until 6/2010 is also needed.
What about those recruited before June 2010?	Current trainees can work under direct supervision once they have passed the introductory Certificate-level exam (our CF1 Financial Services Regulation and Ethics) but they need the full Certificate FP or

- Do they... equivalent before they can be signed of as competent advisers. However the position post-June 2010 is unclear:
- ...continue advising until appropriately qualified?
- Will existing trainees be permitted to continue advising under supervision until appropriately qualified (end-2012)?
- or cease advising until they complete the NewQual?
- Or would they have to cease advising even under supervision until they complete the new qualification.

Gap Between Existing Level 4 and the New Benchmark: Topping-Up Knowledge

We agree with the FSA that there should be structured CPD (“top-up”) to fill any gaps between an existing Level 4 qualification and the new benchmark.

- There must be a structured programme
- We are developing a process to help members identify gaps and will deliver a programme of structured CPD. We will formalise when the new Appropriate Exam Standards are agreed.
- Many will need to undertake the gap-filling
- The vast majority of the proposed syllabus is covered by the existing Level 4 qualifications (ie. the ‘J’-subjects within the CII Diploma). However there are several exceptions such as the Financial Services, Regulation and Ethics unit for which there is no existing equivalent Level 4 exam. As it currently stands every single adviser, even the highest qualified such as our chartered members, will need to do some gap filling (in the form of structured CPD) on this and other subjects.
- Do existing advisers need to do the full CPD or just the ethics content.
- We question whether existing advisers working in a regulated environment should need to undertake CPD on the full syllabus or whether this should be restricted to just the ethics content. A further consideration might be to permit members of a professional body that commit to a code of ethics to be exempt from this.

Work-Based Assessments: Robust, Independent and No Shortcuts

We support work-based (alternative) assessments provided these are robust, independent, and have no shortcuts or exemptions.

We have submitted detailed proposals on a model for alternative assessments and are currently working to develop these proposals into a robust, practical form.

- This process must be based on the existing QCF Level 4 Diploma (ie 37 credits) in terms of robustness
- We support the FSA’s suggestion of developing a work-based (alternative) assessment process to exams for experienced advisers instead of but as robust as the QCF Level 4 Diploma (ie 37 credits or 370 study hours) as stated above. The achievement by advisers of this level of qualification is regarded as a necessary component of the step change required as an outcome of the RDR.

Our overall view

- Underpinning criteria
- Any alternative assessment must meet the criteria laid out in CP09/18, namely:

1. the technical content of the assessments and learning outcomes must match the exams on which they are based.
2. the content should also meet the criteria for your "no regrets" provision: all parts must be at Level 4.
3. the assessment must present the same challenge as the written exam.
4. assessors must be completely independent and must be highly credible in terms of their knowledge and their ability as assessors.

The programme must be demonstrably robust

We believe that alternative assessments could be used as part of a transitional arrangement for existing advisers (already qualified to QCF level 3 or equivalent) wishing to achieve a Level 4 Diploma before the 2012 deadline.

In order to meet the basic requirement of RDR step change and achieve public confidence in the minimum competence standards for advisers, any transitional arrangements for those currently qualified to Level 3 must be demonstrably robust.

Quality assurance and robustness of assessments

No shortcuts to qualification

There should be no shortcuts to qualification. Any alternative assessments developed must be seen to be 'deemed equivalent' to the existing 'no regrets' requirement as laid down by FSA.

Qualification level must be QCF Level 4 Diploma

Therefore the CII concludes that overall qualification level for all advisers must be at QCF Level 4 Diploma or equivalent, regardless of the specific assessment method i.e. any new assessment should in fact have actual equivalence.

Any new assessment units developed should therefore be in the QCF and be the equivalent of a full Diploma at Level 4, delivered by an OfQual regulated Awarding Organisation. All of these conditions should be met to ensure the robustness, transparency and equivalence of all advisers' minimum competence standards.

Anything less would undermine the basis of public confidence in the competence of all advisers.

The relative merit of differing assessment methods

CII background in assessments

The CII has considerable experience and expertise in the construction and conducting of objective and subjective assessments, in oral, written and online formats, through formal examination and evidence based (portfolio or work-based) assessments. The CII is

- regulated by Ofqual in the development and delivery of vocational qualifications,
- accredited to BS 17024 to assess advisers against the BS ISO 22222 standard for financial planners. Additionally,
- has experience of portfolio assessments in the context of National Vocational Qualifications (NVQs).

<p>Oral exams are less effective and consistent: eg risk of subjectivity</p>	<p>Whilst it is possible to construct purely oral versions of examinations testing knowledge (CII already does this for some candidates in special circumstances), it is our experience that oral exams are less effective and consistent than other forms of assessment due to the inherent increased risk of subjectivity.</p>
<p>They are typically used in conjunction with other forms of assessment</p>	<p>Oral assessments (such as the <i>viva voce</i> format commonly used by e.g. universities) are typically and most effectively used in combination with other forms of assessment, and largely in addressing aspects of competence around the practical application of methods e.g. the practical application of the financial planning process.</p> <p>Oral assessments often take the form of role-playing or of structured interview, but are primarily used by assessors in conjunction with or as a supplement to other evidence e.g. case studies.</p>
<p>The availability of the assessors themselves will also be an issue</p>	<p>The availability of sufficient numbers of assessors will also be an issue. They would have to be appropriately qualified and independent, and have the time and resources to carry out assessments as required.</p>
<p>Must be a mixed format assessment</p>	<p>The CII believes that any transitional assessment developed as part of RDR should be a mixed format assessment, containing some formal knowledge assessment in exam conditions in addition to any oral or work-based assessments.</p> <p>We are working to develop an alternative assessment model to take into account FSA and Ofqual views on the required standard of the process.</p>

Professional Ethics: What Good Behaviour Looks Like

We support the FSA’s progress in bringing individual ethical standards into the RDR. A hallmark of a professional is the ability to inspire public trust in their services, and ethical standards are paramount to this.

<p>An approach to individual practitioner day-to-day activities</p>	<p>While the FSA principles of business provide the main information source underpinning firm day-to-day behaviour, this is directed towards firms in conjunction with other elements of the Handbook. On the other hand, a code of ethics and conduct sets out the high level principles to help guide practitioners in the clearest possible way what professional behaviour “looks like” on a day-to-day basis.</p>
<p>The CII Code of Ethics</p>	<p>The CII has had in place a member code for over a decade. This has been revised this year following extensive development as part of a broader review of CII ethics and integrity issues. This involved an independent review culminating in a detailed report to the CII Board and the CII’s Professional Standards Board. These recommendations were published as a CII <i>Paper in Professionalism</i>.⁵</p>

⁵ See *Getting Professional About Ethics: An Independent Report for the CII*, Papers in Professionalism no.2, May 2009. www.cii.co.uk/downloaddata/PP-2GettingProfessionalonEthics.pdf

The CII process to review its own code

Revision to the Code itself⁶ was led by a task force of the CII Professional Standards Board comprising consumer and other lay representatives. This group reviewed existing codes used by other professional bodies against the old CII code. This work resulted in the following two key features of the revised Code:

Focus on practicality

- the text should be prepared in a form which sets out in straightforward language the mandatory core duties applicable to practitioners; and
- the principles should be complemented by guidance as to their application and how they might relate to those situations. Our Code uses questions to help guide practitioners through various situations.

Question 17: CII views on the FSA model code of ethics⁷

The model for the APER Sourcebook is a useful start

We believe the text proposed in the consultation setting out amendments to the Statements of Principle and Code of Practice for Approved Persons provides a useful starting point to the discussions on both a code and the professional standards board more generally.

The PSB should oversee the proposed Code

It should be the role of the proposed Professional Standards Board to provide guardianship of the overall Code principles. That group’s composition would provide a standing expertise that could help to ensure that the code principles are appropriate. The PSB should set the principles to which specific professional body codes adhere.

Ethics should be promoted in reputational terms

The code should be promoted not as another regulatory burden but as a virtuous platform for improving the reputation of the market as a whole.

Continuing Professional Development: Keeping Professionals Current

We support the FSA’s recognition within the RDR of the need to keep professionals current through CPD. However this must not be confused with the separate process to “top-up” practitioners to the new benchmark qualification.

Introducing CPD into the RDR is the right thing to do

The CII requires and promotes the professional development of its members, and supports your efforts to entrench this within the RDR process. All professionals need to keep their knowledge updated and should be required to evidence adequate CPD activity. CPD can itself influence consumer trust and confidence.

However this must not be confused with “top-up” CPD described earlier

It is very important to note that CPD for the purposes here is to describe an *ongoing process* to keep professionals current. This is not to be confused with the structured CPD required to “top-up” practitioners to the new QCF Level 4 Diploma benchmark qualification standard.

CII has been undertaking review of its own CPD

The CII is conducting a comprehensive review of its CPD. The first step in this was to gauge member views on CPD through a survey. While this

⁶ A copy of the full code can be found in Appendix 3 of this document.

⁷ Please see Appendix 1 for responses to selected other consultation questions.

practices was directed exclusively at our general insurance faculty members, we believe that the findings are relevant to financial services practitioners including financial advisers as well.⁸

Members believe that mandatory CPD would help enhance public trust A major finding of this research is that nearly 70% of members feel that a mandatory CPD requirement would help win back their trust in professionals working in the financial services sector.⁹

Question 18: Comments on the CPD approach

The proposed approach is sensible	The proposed approach the FSA has taken is sensible. It sets out the minimum standards for CPD and how it could be delivered.
Professional bodies can help to ensure a meaningful and practical CPD delivery	As a professional body we have considerable experience of CPD schemes and have conducted research on this. ¹⁰ Our key findings are that CPD schemes can be administered in various ways to realise appropriate outcomes. There is much that could be done by professional bodies and the regulator to ensure this is meaningful, delivered in a user-friendly fashion, to meet the needs of a diverse sector.
Danger of making CPD too compliance-orientated	There is a danger of making CPD a ‘compliance orientated’ activity i.e. specifying hours. This could be dangerous to developing real professionalism in a cultural sense, which focuses on individual need and job relevancy through individual judgement. However, we understand why this might be required as guidance in the early stages for those unfamiliar with CPD.
Like ethics, CPD should be promoted in reputational terms	Again, it is critical that CPD standards are promoted not just as another aspect of compliance burden but as a vehicle to enhance practitioner career development and competitiveness.

Professional Standards Board: Independent and Respected

The proposals for an Professional Standards Board (PSB) are key to unlocking the door to public trust and confidence. It must be independent of the industry and professional bodies and have significant “lay” representation, and must set down robust standards to be respected by all parts of the market.

The points made in our RDR position paper two years ago still apply. We envisage: In our fifth RDR position paper published in December 2007, entitled “Building Trust and Confidence in Financial Services: A New Professional Framework,” we set out a vision for an independent professional standards board. Many of our views are still relevant to the present consultation. We envisage:

⁸ For a detailed report of the CPD survey, and a report on the CII CPD review, see: <http://www.cii.co.uk/pages/research/cpdreview.aspx>

⁹ Research was undertaken by YouGov plc on behalf of the CII between 29 May and 1 June. Total sample size 2064 adults, carried out online. Detailed report available upon request.

¹⁰ See our paper: *Beyond Box-Ticking: CPD and the 21st Century Professional*, Papers in Professionalism no.4, July 2009. www.cii.co.uk/downloaddata/PP4_Beyond_Box_Ticking_3July2009.pdf

- A single independent board with lay representation
 - A single set of professional standards for the market
 - Recognition of this framework
- **An independent standards board with significant ‘lay’ representation** supported by the retail financial services sector and the regulator, whose function would be to create, oversee and develop these standards including an independent disciplinary function with substantial public interest representation.
 - **A single structure of professional standards for all retail financial services market personnel engaging with customers** comprising a hierarchy of educational and technical standards related to defined sector job function, and a common framework of ethics which would apply to all.
 - **Recognition of this framework by the retail financial services sector, the regulator and professional bodies:** whose function would be to support this new professional framework, applying the standards to their members, overseeing criteria for entry to and continuance in the sector and issuing practising certificates.

Market Structure: Clear, Effective and Meaningful to Consumers

We believe the FSA proposals should at a high level seek to:

1. **simplify the market for consumers in terms of the service offered, the status of the provider-distributor relationship, and the cost;**
2. **improve the quality of the advice available to consumers though increased professionalism; and**
3. **introduce a cost-effective regime to deliver simple and straightforward products where necessary to consumers.**

The role of Money Guidance in this process should also not be forgotten. Although separate from a regulatory perspective, consumers must see it as part of a more holistic financial services proposition.

Advice

- Fundamental that consumers distinguish...
 - ...”advice” from “sales”...
 - ...independent from non-independent and...
- In the advice space, the RDR proposals have developed considerably and we are generally supportive of the direction.
- We still believe that there should be a clear distinction, from the public’s perspective, between “advice” and “sales”. Much of the lack of market confidence in recent years has been rooted in confusion from the customer’s point of view over the type of service offered. As a clear split between advice and sales cannot be achieved through regulatory defined labelling, then another way needs to be sought.
- Advisers should clearly disclose the status of their provider-distributor relationship. Again, much confusion in recent years has centred on a lack of understanding of who the adviser represents, and this has not been resolved by the Key Facts written documents currently in place. The proposals for the mandatory use of the terms “restricted” and “independent” to describe the extent of advice, though not as clear as

sales and advice, are helpful and we support their proposed introduction. Finally the cost of the service must be transparent and meaningful to consumers.

The proposals should not obstruct workplace advice such as GPPs

It is also critical to ensure that any changes to the market structure as a result of the RDR do not obstruct the provision of workplace advice, particularly that pertaining to group personal pensions.

Question 6: A new simplified advice processes category

As set out in the consultation paper, simplified advice is presented as a streamlined process through which an undefined range of financial products can be sold but with ‘advisers’ bound by the same rules as those providing full advice. Offering simplified advice under these terms appears unworkable but we firmly believe FSA needs to work with the industry to find a cost effective way of delivering straightforward products to the mass market through a streamlined process.

Question 7: Professional standards for simplified advice

If a simplified advice process is developed within the current advice regime and allowed to deliver an unrestricted range of products to consumers, then advisers should be subject to the same qualifications and professional standards as advisers using a full advice process. If, however, the product range were to be restricted by definition or by product regulation, then a lower qualification may be appropriate.

Question 8: Retaining a basic advice regime¹¹

The Basic Advice regime failed because it did not present a viable proposition for firms who could only use it to distribute a very limited range of price-capped products (i.e. stakeholder products). The concept of basic advice is sound and could form the basis for a simplified advice process. The regime could be amended to include a limited range of straightforward products either in addition to, or instead of stakeholder products. The Government should explore in more depth the proposals for product regulation as set out in its Financial Services White Paper. Basic advice could be the regime to distribute those products.

There is however, a major flaw in the current basic advice/stakeholder regime that would need to be addressed. It is suboptimal that there is currently no qualification requirement for individuals providing basic advice. Assuming the RDR proposals are implemented and this situation remains unchanged, stakeholder pensions could continue to be sold through basic advice by someone with no qualification at all, whereas selling one with full advice would require a Level 4 qualification. We seriously question the risks posed to consumers buying a pension product through basic advice from an unqualified adviser compared with advice from a qualified adviser based on a factfind, suitability requirement and full COB rules. We would hope that this issue is addressed whether the basic advice regime is retained in its current form

¹¹ Please see Appendix 1 for responses to selected other consultation questions.

or reviewed and amended.

Whether or not the basic advice regime can be amended or adopted to provide ‘simplified advice’ through which non-stakeholder products can be sold, we would expect to see a requirement for professional standards for anyone providing simplified advice. Depending on the range of permissible products, individuals should be required to attain a minimum qualification and maintain ethical standards of behaviour. The level and standards would need to be agreed by the FSA, the market and OfQual and be appropriate to the service required.

Money guidance

Money guidance has a vital role to play As the professional end of the market is becoming clearer through the RDR process, and the mass market is being addressed, it is important not to forget the third element: namely money guidance. Although this sits outside of the RDR review from a financial regulation perspective, we think it is still centrally linked to the outcomes of the whole process for customers.

It must be seen as part of a wider financial services picture With the national pathfinder trials well under way, and (unusually in the current climate) relatively stable cross-party political support for such a service, it is still key that the role of money guidance is seen in terms of a wider consumer-facing financial services proposition.

It could be a vital conduit for connecting consumers with the right sort of advice We think money guidance will play a vital role in supporting future consumer confidence through helping to guide consumers ‘dipping their toes’ into financial services for the first time or with very basic but important needs. Over time, it could act as a conduit to the existing financial advice world, bringing consumers hopefully more engaged and understanding of the process and what they require. Much of this was covered in research by both ourselves and AEGON, and the FSA should ensure that this more holistic view becomes the norm.¹²

Eg remember the AEGON consumer research

The PFS has played a central role in supporting a similar type of service through its *pro bono* adviser Moneyplan scheme with Citizens Advice. This has been a valuable exercise yielding some useful learning.

Conclusion: public information and trust

We think that while the RDR project has made progress, its success will be undermined unless the results are clearly explained to the public so that they can understand and get the full benefit of the changes. The regulator should work closely with industry, consumer groups and media to ensure there is a clear, coordinated message to the public.

¹² AEGON/Opinion Leader *Distribution & Financial Advice Consumer Research Project*, August 2008 <http://www.aegon.co.uk/industry/shaping-our-industry/research/opinion-leader-research/index.html> (summarised in Nick Hurman, “The Future of Financial Distribution and Advice: Listening to Consumers,” *CII Thinkpiece* no.6, August 2008 <http://www.cii.co.uk/downloaddata/HurmanListeningtoConsumers270808.pdf>). Other projects include *Money’s Too Tight to Mention: Will IPODs Ever Trust Financial Services?* a research project on the 18-34s by the CII and Reform http://www.cii.co.uk/downloaddata/CII-Reform_Moneys-to-tight-to-mention_October2008.pdf.

Appendix 1: Responses to Other Specific Consultation Questions

Q1: Do you agree with our proposal to widen the range of products to which the new independence standard will apply?

Yes. If not it will risk firms deliberately focussing on products outside the scope in order to avoid the application of key RDR principles such as adviser-charging. Also it is important to keep aligned with the potential PRIP's regime to avoid yet further change at a later stage. Change costs money.

Q2: Do you agree with our proposals for a new standard for independence that requires firms providing independent advice to make recommendations based on a comprehensive and fair analysis of the relevant market, and to provide unbiased and unrestricted advice?

Basing advice on a "comprehensive and fair analysis" is a more practical and realistic requirement for independence. The most important factor to being independent is that there should be no contractual ties with providers of products or services that compromise in any way a firm's independence.

Q3: Do you agree with our proposals for new disclosure requirements for firms?

The term restricted may not provide the clarity that is being sought but is acceptable provided the FSA monitors closely how firms describe their services.

Q4: Do you think we should introduce a mandatory form of words for firms to use when explaining restricted advice? What might this look like?

Mandatory wording would be preferable. Oral disclosure is welcome but again could be delivered in a manner that clouds the objective, e.g. making 'restricted' appear as 'selective'. FSA would need to take a strong stance against firms not engaging with the spirit of the rules.

Q5: What are your views on removing this GPP exemption?

Whilst it may not be essential for the reasons stated, its retention gives assurance to advisers. The rule is not detrimental to consumers but if its removal casts a doubt over the extent of advice it could be, so our preference is for it to be retained.

Q12: Do you agree with our proposals on the disclosure of adviser charges?

We agree with most of the proposals. Disclosure rules must observe three principles:

- **Timing of disclosure:** the proposals are about right in this respect;
- **Clarity:** the precise charge is often unknown at the outset of the service so this must be clearly indicated.
- **Standard terminology:** for example "fees" and "commission" are sometimes used interchangeably leading to some consumer confusion. This should still allow flexible approaches to charges.

Q13: What approach should we take to the remuneration of individuals giving investment advice?

The manner in which advisers are remunerated should be subject to FSA scrutiny and we support the principles set out at paragraph 4.52.

Q16: Do you think that the principles of Adviser Charging, or any other alternative approaches to remuneration, should be applied to non-advised services?

We agree with the approach. The public have a right to know what they are paying for any service if in addition to a product charge.

Appendix 2: What is QCF Level 4 Diploma?



Credit and Level

Each qualification title contains the following:

- the level of the qualification (from Entry level at the bottom to level 8 at the top);
- the size of qualification (award/certificate/diploma); and
- details indicating the content of the qualification.

Simply by looking at the title of a qualification you will be able to see how difficult it is, how long it will take the average learner to complete, and its general content. To understand the level of difficulty of the units and qualifications in the new framework it might be helpful to know that GCSEs (grade A* - C) are level 2, GCE A levels are level 3 and a PhD is a level 8. Knowing this can help to position the difficulty and challenge of each level in the framework.

Source: "What is the QCF?", Qualifications and Curriculum Development Authority website, <http://www.qcda.gov.uk/19674.aspx>

Appendix 3: CII Revised Code of Ethics

1. You must comply with this Code and all relevant laws and regulations.

This includes, but is not limited to:

- 1.1 Dealing with regulators and the CII in an open, clear and co-operative manner;
- 1.2 Ensuring that all correspondence and queries from regulators and the CII, and others acting on their behalf, are dealt with promptly, courteously and not in a vexatious or frivolous manner;
- 1.3 Working not only within the law but also within the spirit of the law;
- 1.4 If within your control, making sure your organisation is suitably regulated and has effective compliance arrangements;
- 1.5 Ensuring, where required, you are individually authorised or regulated; and
- 1.6 Reporting any breaches of the Code to the CII.

Where this core duty conflicts with another core duty this duty will have priority over the others. By way of example, notwithstanding core duty 3, it is your duty to give confidential information to the relevant authorities where the information relates to a criminal act or fraud by your client.

Some key questions to ask yourself:

- Am I up-to-date with recent regulatory and legislative developments?
- Am I aware of general business regulatory requirements covering areas such as advertising, data protection and competition?
- Do I take full account of reports on individual cases from ombudsman services, as well as the wider regulatory and legal framework?
- Do I appreciate the general purpose of the rules I am following, for example, do I follow the letter of the regulation but fail to think about the outcome for my client?
- Am I aware of internal compliance arrangements?
- Do I consider the compliance arrangements within my organisation are effective and comply with all relevant regulations?
- Am I aware of how to update or correct compliance arrangements or whom to contact if they require change or update?

2. You must act with the highest ethical standards and integrity.

This includes, but is not limited to:

- 2.1 being honest, trustworthy and open;
- 2.2 being reliable, dependable and respectful;
- 2.3 not taking unfair advantage of a client, a colleague or a third party;

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- 2.4 not bringing the financial services industry or the CII into disrepute whether through your actions in work or outside work;
- 2.5 not offering or accepting gifts, hospitality or services which could, or might appear to, imply an improper obligation;
- 2.6 promoting professional standards within the industry;
- 2.7 encouraging your organisation to produce an ethical code;
- 2.8 making sure your CII membership or chartered status is described correctly;
- 2.9 informing the CII of any change in your work or circumstances which affect your membership or chartered status; and
- 2.10 operating both professionally and in a financially responsible manner so as to avoid becoming insolvent.

Key questions:

- What would an outsider think of what I am doing, and does this matter ethically?
- How would my actions look to the CII?
- Should I discuss my proposed actions with my superior or another appropriate person or the CII?
- Do I know if my organisation has an ethical code and do I fully understand it?
- Does my organisation reward good ethical behaviour?
- Does my organisation follow a whistle blowing policy?
- How can I promote trust in my organisation and the financial services industry?
- Do people trust me? If not, why not?
- Do I think it is OK if I don't get caught?
- Do I say "show me where it says I can't" or do I say "is this ethical"?
- Why am I being entertained or offered hospitality?

3. You must act in the best interests of each client.

This includes, but is not limited to:

- 3.1 Encouraging your organisation to put fair treatment of clients at the centre of its corporate culture;
- 3.2 Basing your decisions on a clear understanding of client needs, priorities, concerns and circumstances;
- 3.3 Giving your client all the information, of which you are aware, which is needed for your client to make an informed decision provided that information is not confidential to another client;
- 3.4 Making sure the promises you make to clients about a product's performance and the after sale service are true;
- 3.5 Respecting confidential information of clients, former clients and potential clients;
- 3.6 Ensuring you do not use information from work improperly and/or to your personal or business advantage;

- 3.7 Turning down work where a conflict of interest exists between you or your employer and the client; and
- 3.8 Refusing to act where a conflict of interest exists, save where acting in these circumstances is expressly permitted by a regulator.

A conflict of interest is a situation in which someone has competing professional or personal interests. Depending on the circumstances, there may be a perceived rather than an actual conflict of interest. Both perceived and actual conflicts must be dealt with appropriately. Conflicts of interest can arise where:

- You owe, or your firm or employer owes, separate duties to two or more clients in relation to the same or related matters and those duties conflict or there is a significant risk they may conflict; or
- Your duty to act in the best interests of any client conflicts, or there is a significant risk it may conflict, with your own interests.

Key questions:

- Am I acting fairly towards this client or my employer or my colleagues?
- Are my opinions and statements objective?
- Am I being honest and truthful?
- How can I better help my client to make capable and confident decisions?
- Would I like to be treated in this way if I were a client?
- Is this in the best interests of my client or my bonus?
- Do I try to cover up my mistakes?
- Does my organisation reward arrangements that deliver fair treatment to customers as well as offer incentives to help employees grow the business?
- Are employees rewarded in ways which encourage them to put their client's best interests first?
- If the client is vulnerable, what extra steps can I take to make sure I act in my client's best interest?
- How can I help my clients to understand financial services?
- Do I provide clear information pre and post sale?
- Do I listen to my clients or just hear them?
- Will acting for this client compromise my position?
- If I act for this client will it harm them or be to the detriment of another client?

4. You must provide a high standard of service.

This includes, but is not limited to:

- 4.1 Communicating with each client in a way that is accurate and straightforward and expressed in a way that the individual client can understand;
- 4.2 Being transparent about fees and other costs;
- 4.3 Making sure reasonable steps are taken to ensure all advice is accurate and suitable for the individual client;

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- 4.4 Obtaining and providing clear information before, during and after the point of sale;
- 4.5 Ensuring adequate and correct records are kept;
- 4.6 Acting with skill, care and diligence;
- 4.7 Acting only within your ability and authorisation and seeking help where necessary;
- 4.8 Ensuring your knowledge and expertise is kept up-to-date and relevant for your work including meeting any Continuing Professional Development (CPD) requirements;
- 4.9 Ensuring those who work for you have appropriate training and supervision and contributing to their learning and development; and
- 4.10 If it is within your control, making sure your firm has a clear written complaints procedure which is followed.

Key questions:

- Do I do what I say I will do and do it when I say I will?
- How can I improve the service I give my clients?
- Am I approachable?
- Do I give and receive constructive feedback to/from colleagues?
- Does my organisation seek feedback from clients?
- Does my organisation have a swift and effective mechanism for resolving complaints?
- Do I learn from complaints?
- Do I take complaints seriously?
- Can I improve my knowledge by additional training?
- Do I encourage subordinates to increase their knowledge?
- Do I ask for help when I need it?
- Does my organisation have systems for managing paperwork and data which work?
- Does my organisation assess customer satisfaction and provide feedback to employees?

5. You must treat people fairly regardless of race or racial group, sex or sexual orientation, religion or belief, age, and disability.

This includes, but is not limited to:

- 5.1 Obeying the equality and diversity laws in your country;
- 5.2 Treating each person as an individual;
- 5.3 Challenging and reporting unlawful or otherwise unfair discriminatory behaviour and practice;
- 5.4 Always acting openly and fairly and treating employers, employees, colleagues, clients, potential clients and suppliers with equal respect and opportunity;

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- 5.5 Making reasonable adjustments to assist people with disabilities or particular needs you may deal with at work;
- 5.6 Encouraging your organisation to produce and promote an equality and diversity policy setting out how the business plans to promote equality, diversity and inclusion, prevent discrimination and deal with any instances of discrimination which might happen; and
- 5.7 If it is within your control, making sure processes and procedures do not discriminate.

You should be aware:

- Race or racial group includes ethnic or national origin, colour and nationality;
- Sex includes marital status, pregnancy, maternity, paternity and gender reassignment;
- Sexual orientation includes civil partnership status; and
- Religion or belief includes philosophical beliefs similar to a religion.

Key questions:

- If I belonged to any of these categories, would I feel unfairly disadvantaged?
- Is what we are asking for more difficult for this person to achieve? And, if so, is the thing we want really necessary?
- What can I do to promote a workforce that is representative of the people we serve?
- Does my organisation have effective equality and diversity training arrangements?
- Does my organisation systematically audit its own policies and practice to ensure that these comply?
- Does my organisation create unnecessary hurdles for this person?