

FSA Retail Distribution Review Consultation (CP09/18): Delivering the RDR

June 2009

An Overview

What's New

On 25 July 2009, the FSA published its latest [Consultation Paper](http://www.fsa.gov.uk/pubs/cp/cp09_18.pdf) [hyperlink to: http://www.fsa.gov.uk/pubs/cp/cp09_18.pdf] on the Retail Distribution Review, setting out detailed proposals on the advice and sale of retail investment products. This includes draft changes to the FSA Handbook, and asks for comments on the regulator's plans.

This latest phase follows a debate and dialogue which has taken place in the market since an FSA discussion paper in 2007.¹ The FSA are looking to fully implement and embed the proposals into industry by the end of 2012.

This document summarises the FSA paper and provides some background, but does not give the views of the PFS or CII Group.

For a PFS/CII view, see our press releases.²

We have also prepared a more detailed document that provides a closer look at the proposals and their implications for advice.³

Key Features

The FSA Consultation Paper (CP) sets out the regulator's proposals for improving the UK retail investment market in terms of how and from whom investment products are sold, how the distribution is paid for, and other issues such as professional standards.

This latest CP from the FSA on the RDR proposes the following:

- to expand the scope of investment products included within the RDR;
- improving the clarity with which firms describe their services to consumers;
- addressing the potential for adviser remuneration to distort consumer outcomes; and
- increasing the professional standards of advisers.

Scope

The scope of products included in these changes has been expanded. The new RDR proposals would apply to the distribution of "packaged products" currently within the scope of the Conduct of Business sourcebook (COBS) in the FSA Handbook:

- collective investment schemes;
- investment savings trust schemes;
- life assurance policies with an investment component; and
- certain types of pensions.

¹ For more information on the background of this RDR process, see our briefing *Retail Distribution Review: A Background*, available: http://www.thepfs.org/downloaddata/RDR_A_Background_June_2009.pdf

² CII press release: <http://www.cii.co.uk/app/news/default.aspx?endstem=1&id=942>; PFS: <http://www.thepfs.org/app/mediacentre/release.aspx?y=2009&endstem=1&id=69>

³ *FSA CP09/18 Delivering the RDR: A Closer Look at the Key Proposals*, June 2009
http://www.cii.co.uk/downloaddata/FSA_RDR_CP09-18_A_Closer_Look_June_2009.pdf

The new RDR proposals would also include broader retail investment products, namely:

- unregulated collective investment schemes;
- all investments in investment trusts; and
- structured investment products
- the FSA will be working with the FSSC and awarding bodies to align the scope of relevant qualifications

Clarity for Consumers

In order to help consumers distinguish between the different forms of advice on offer to them the FSA has put forward new categories of advice (see *diagram 1*):

- “independent advice”: only to be used when recommendations are based on a fair and comprehensive analysis of the market, and the advice is unbiased and unrestricted; and
- “restricted advice”: when the firm can only give advice on certain parts of the market, such as its own range of products, which would be made clear to the customer.
- there would also be “streamlined advice services” category comprising of
 - a new “simplified advice” class which would be like advised guided sales and involve a personalised recommendation, and the FSA are currently proposing that this category would also have enhanced professionalism requirements and adviser charging, and could be either “independent” or “restricted” in terms of market coverage; and
 - the existing “basic advice” which would involve advice on stakeholder savings and investment products only, entail a very basic assessment from scripted questions (as opposed to a full assessment). Enhanced professional qualifications or adviser charging would not be required.

Interpretation of Retail Investment Distribution Labelling

Advice		“Streamlined Advice”	Sales
<p>Independent Advice</p> <ul style="list-style-type: none"> ▪ Fair analysis of the market ▪ Written disclosure of independent status ▪ Adviser charging ▪ Professionalism proposals: Level 4 qual'n, CPD, etc. 	<p>Restricted Advice</p> <ul style="list-style-type: none"> • Limited part of the market • Written and oral disclosure of restrictions • Adviser charging • Professionalism proposals: : Level 4 qual'n, CPD, etc. 	<p>“Simplified Advice”</p> <ul style="list-style-type: none"> • Can be either Independent or Restricted in terms of market coverage. • Involves personalised recommendation • Would require Level 4 qual'n (to be confirmed) • Would require Adviser Charging. <p>Basic Advice</p> <ul style="list-style-type: none"> • Scripted questions, but full assessment not carried out • advice on stakeholder savings/investment products only • No qualification. No adviser charging. 	<p>Execution-Only</p> <ul style="list-style-type: none"> • No major handbook changes

Note: this is our interpretation of the FSA text

Disclosure Requirements

All firms providing investment advice on retail investment products will be required to disclose the nature of their services to their customers before providing the service:

- all firms must provide in writing whether they provide independent advice or restricted advice; and
- firms offering restricted advice must orally explain this and how their services are so restricted.

Remuneration

On the issue of adviser charging the FSA proposes to:

- ban product providers from offering amounts of commission to secure sales from adviser firms; and, in turn
- ban adviser firms from recommending products that automatically pay commission.
- all firms that give investment advice must set their own charges, in agreement with their clients, and will have to meet new standards regarding how they determine and operate these charges.

Independent versus Restricted Advice

	Independent Advice	Restricted Advice
Scope of advice	Comprehensive and fair analysis of the <i>relevant</i> market <i>Relevant</i> = "comprising all of the retail investment products that are capable of meeting the investment needs and objectives of the consumer"	Single or limited range of products
Disclosure requirements (to be issued to the consumer prior to providing the service)	Written disclosure of independent status	Written disclosure of restricted status Scripted oral disclosure of the nature of products provided
Raised professional standards	QCF Level 4 qualification CPD, other	QCF Level 4 qualification CPD, other
Adviser charging structure	Yes	Yes

Note: this is our interpretation of the FSA text

Increasing Professionalism

The FSA's objective is to deliver standards of professionalism that inspire consumer confidence and build trust so that, in time, financial advice is seen as a profession on a par with other professions. The proposals they are consulting on are as follows:

- **Professional Standards Board:** proposal to create this as a separate entity by 2012 implementation (not part of the FSA on an interim basis as suggested last November). There will be a detailed consultation on this (including its independence status) in Q4-2009.
- **Benchmark Qualification:** will be raised to QCF Level 4 and all advisers must reach this by 2012. New entrants will be required to reach the new benchmark once this is finalised in 2010. FSSC is now consulting on the details. This would apply to all those giving "independent", "restricted" and "simplified" advice, but not "basic advice" or execution only.
- **Alternative Assessments:** such a process would be developed involving oral assessments in place of (but as robust as) Level 4 exams. It would apply to advisers practicing as of June 2009 and withdrawn by end-2012. Awarding bodies would conduct these assessments through independent assessors.

- **Ethics:** a consistent and visibly enforced Code of Conduct would be created. Professional bodies' own codes will need to comply with this, and be recognised by the FSA/PSB.
- **CPD:** FSA/PSB will formally consult on consistent standards of CPD, building on industry good practice.

Other points of interest

- **Draft rules:** the consultation includes draft rules to the FSA Handbook on everything except the professionalism proposals.
- **Cost Benefit Analysis:** the overall compliance costs for the RDR are estimated at £430m (of which £120m are down to professional qualifications).

Next Steps

The proposed changes outlined above form the basis of the regulator's vision for the future of retail distribution of investment products in the UK. The FSA is aiming for all this to be fully implemented and embedded by December 2012. CP09/18 includes a detailed timeline:

30 October 2009: the FSA Consultation (CP09/18) closes.

Remainder of 2009:

- FSSC consultation on new benchmark exam standards for advisers
- Consult on Professional Standards Board (PSB) being set up independently of the FSA
Advisers who are not operating with a Level 4 qualification need to get qualified at the new level

2010:

- Policy Statement containing final Handbook text, including guidance for firms on new criteria
- Policy Statement about move to Level 4 qualifications and basis on which a PSB will be established
- New 'RDR compliant' benchmark qualifications become available for new entrants
- Statement on what CPD top up looks like

2012:

- To be deemed competent by their employer all existing advisers (as at November 2008) must be qualified at Level 4 by year-end
- All advisers must describe their services as independent advice or restricted advice by the end of the year
- All independent advisers must comply with the new independence and product requirements
- All advisers must be ready to operate adviser charges by the end of the year
- Product providers will be unable to offer products with commission or factoring services by the end of the year