

The current RDR landscape

The state of progress as at September 2010



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RDR Change Calendar 2010–2011

With various RDR consultation documents and policy statements having been issued over the last few months we have summarised below the key aspects of the review, including where further consultation or guidance is expected.

Governance & Risk Framework

Review/Discussion Paper	Independent Banking Commission – first meeting	July 2010
Policy Statement	CP 10/18 Implementing Aspects of the Financial Services Act 2010	July 2010
Feedback Statement	Independent Banking Commission – Issues Paper published	September 2010
Review/Discussion Paper	FSA review of reward structures for in-house sales staff	October 2010
Policy Statement	Independent Banking Commission – Final Report	September 2011

Retail Distribution Review (RDR)

Consultation	CP 10/12 Competence & Ethics CP 10/14 Professionalism	June 2010 July 2010
Policy Statement	PS 10/10 Corporate Pensions	July 2010
Consultation	Review of Transactional Sales Data Reporting Professional Standards	August 2010 August 2010
Feedback Statement	Professionalism – New Qualifications Platforms	August 2010 September 2010
Policy Statement	Protection – Remuneration Transparency Competence & Ethics Professionalism (inc protection)	September 2010 December 2010 January 2011

Other

Consultation	FSA Quarterly Consultation (inc Disclosure: Adviser Charging and product costs in Q4 2010)	Quarterly
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Remuneration options

Adviser Charging

FSA PS 10/6 confirms introduction of Adviser Charging (“AC”).

Advisers required to be paid via charges that have been set out up-front and agreed with clients rather than commissions from providers.

Charges should reflect the services being provided to the client rather than product or provider being recommended.

Providers will no longer be allowed to make commission payments, even if the adviser intends to rebate such payments to the client.

AC can be paid as separate fee or from deductions made from investment.

Ongoing charges should only be levied where a client is paying for an ongoing service (exception where regular contributions are being made, then the AC can be spread over an agreeable period with the client).

Requires ‘unbundling’ of charges such that product and advice costs can be separately identified.

Next steps

FSA will carry out ‘Preparedness Reviews’ in the run-up to RDR. “The data gathered will help identify those firms at greatest risk of exploiting the pre RDR situation”.

FSA considering a requirement for product sales data to be captured at individual adviser level.

Consultancy Charging on Corporate Pensions

FSA PS 10/10 confirms introduction of Consultancy Charging (‘CC’) for GPP/GSHP/GSIPP (collectively ‘GPP’).

CC is the Corporate Pensions version of AC.

Costs of advice or services to employers about GPPs must be agreed with the employer, but can be deducted from employees’ plans in a similar way to AC.

Commission payments will be banned on all new GPP sales post RDR, regardless of whether sold with advice or via direct offer. Exception to this is allowable for new entrants and/or increments made to a scheme established pre RDR.

Commission ban extends to investment products linked to occupational pension schemes sold as GPP alternatives.

CC can be deducted from contributions and/or clients plans on a £ for £ basis.

Advisers will be liable to disclose their full earnings to the employer.

Next steps

FSA will establish an industry wide working group (including such as ABI & AIFA) to consider how best to allocate consultancy charges across different types of GPP taking into account factors such as scheme demographics, varying contribution levels, new or existing member and other relevant factors.

As per AC, FSA will monitor market in the lead-up to RDR to ensure no ‘fire sales’ to take advantage of commission.

Factoring

It will not be possible for providers to make up-front payments of AC / CC and recover those over a period from the client's plan. For example, if the AC agreed is £1,500 and the adviser wishes this to be paid on commencement, the full AC would be deducted from the plan on day 1.

It will, however, be possible to agree with clients the timescales for payment of initial and ongoing charges whether these are paid directly by clients or via deductions from their investments.

Legacy business

There will be no need to revisit remuneration agreements between client/adviser/provider as appropriate for business sold pre RDR.

Increments to pre RDR business can continue on pre RDR terms if required (e.g. commission could be paid on such increments).

Any 'trail' arrangements in place pre RDR can continue.

What is the taxation position on Adviser Charging?

The ABI has been working jointly with HMRC to clarify the VAT liability of an adviser's remuneration. This has resulted in a guidance note being prepared covering three key areas namely:

- 1) The VAT treatment of an initial and ongoing service where the cost is paid through commission
- 2) The VAT treatment of an initial up-front service where the cost is paid through Adviser Charging
- 3) The VAT treatment of an ongoing service where the cost is paid through Adviser Charging.

The note clarifies that, broadly speaking, VAT will be applicable where advice is provided but no 'arrangement' of a product takes place. Where the adviser acts as intermediary between a client and a provider, leading to product sale, then no VAT is payable.

The most common scenario though is likely to involve provision of advice and arrangement of suitable products thereafter. In this case it will be the predominant supply (of either advice or product arrangement) that will determine the VAT position. Hence, if the predominant supply was deemed to be advice then VAT would apply on both the advisory and arrangement elements. However if the opposite was true then no VAT would be applicable on either element.

Advice landscape

Independent v Restricted

One of the FSA's main aims of the RDR is to make it simpler for clients to differentiate between the various types of advice offered by different firms. All firms will be required to disclose in writing to the client, prior to providing any advice, whether they will provide 'independent' or 'restricted' advice.

Independent advice is advice that is unbiased, unrestricted and based on a comprehensive and fair analysis of the 'relevant market'. In general, relevant market will include **all** "retail investment products", which will extend beyond packaged products to include, for example:

- Unregulated Collective Investment Schemes
- All investments in Unit Trusts
- Structured Investment Products
- Exchange Traded Funds
- Other investments that offer exposure to underlying financial assets, but in a packaged form, which modifies that exposure compared with direct holdings in the financial asset.

However, firms specialising in a particular market will be able to provide independent advice on that market so long as they consider all products capable of meeting the client's need in that market and explain the scope of their services.

Where the above requirements are not met then the adviser will be deemed to be providing restricted advice.

Are the qualification requirements for restricted advice less onerous?

No. Both independent and restricted advice will be subject to the same RDR qualification (and Adviser Charging) requirements.

Can I operate a provider panel post RDR?

Advisers can continue to use panels, but must be able to demonstrate clearly why it's felt that a particular market, product or class of products, which has been excluded, is not suitable for their client's needs. These panels should be regularly reviewed.

I've also heard about 'simplified advice' and 'basic advice.' How do these differ?

Simplified Advice is designed to be a middle ground between advice and sales. However the same requirements for independent advice, qualification requirements and Adviser Charging rules applicable to independent and restricted advice will apply for Simplified Advice also.

Initially, this was aimed as a means of allowing firms to provide simplified advice for lower income clients with basic needs which firms could offer without having to adopt the full requirements of RDR.

Basic Advice is a form of regulated advice that will continue post RDR but will not require the full RDR suite of requirements such as qualification requirements or the need to apply Adviser Charging.

Firms will be permitted to sell charge-capped stakeholder savings and investment products by using a streamlined process. Prospective customers are asked some pre-scripted questions to assess their suitability for a stakeholder product, however a full assessment of the customers needs is not carried out, nor is any advice given on whether a non-stakeholder product maybe more suitable.

Next steps

The FSA have not yet found a consistent single model for Simplified Advice and are unable to give further guidance at this stage. They continue to welcome suggestions from firms on how they could operate within a Simplified Advice framework.

Platforms

Key issues arising from FSA Discussion Paper 10/2:

How should platforms be remunerated for the services they provide in connection with advised sales post RDR?

The FSA laid out 3 possible options as to how platforms could be remunerated going forward:

- 1) No change (i.e. continuance of product provider funding)
- 2) Continuation of product provider funding but with clear rules on 'unacceptable practices' and additional disclosure requirements of how much is being paid by the product provider
- 3) Stop all payments from product providers to platforms.

The FSA has stated a preference for option 3, however this is not a final view and they will take into account responses to CP 10/2 before finalising their stance.

How can Adviser Charging be delivered via platforms?

The FSA have made it clear that platforms will need to administer Adviser Charging to the same standards as other product providers. However, many platform providers have expressed concern that multiple share classes may need to be created as a solution to pay Adviser Charges.

Customers will need to be supplied with the costs associated with using a platform cash account, in particular, if a platform retains any interest payable on cash accounts this (along with the interest rate payable) will need to be clearly and prominently disclosed to customers.

In addition, clear disclosure of how fees will be paid in the absence of sufficient cash in the customer's account e.g. if this is by unit redemptions customers should be made aware of the potential consequences (e.g. reductions in benefits) and a customer may be better off paying fees in a different way.

The FSA have also stated that they will consult on additional rules to ensure product providers do not defer, discount or rebate their product charges in such a manner as to give the impression that these charges offset any Adviser Charges that are payable.

How can the use of platforms by advisers ensure good outcomes for consumers?

One of the main concerns of the FSA is that when choosing to use platform services, an adviser firm should ensure customers do not incur additional costs on their investments without any additional benefit.

They have also stressed that a firm with a varied set of customers is unlikely to be able to use a single platform for all their customers. In addition, a firm should not assume that platform services will be suitable for its customers.

The FSA also published a paper on platform operator disclosure documents – "Good and poor practice report" in March 2010 which showed a number of platform operators had room for improvement in ensuring the information supplied to customers is fair, clear and not misleading.

How, and within what timescale, can the process of transferring assets between platforms be improved?

One of the biggest frustrations in the platform market can be the practice of having to sell and repurchase assets when moving between platform operators rather than being able to re-register assets between platforms.

The FSA are minded to make it compulsory for platforms to be reregistered off their platform no later than 31 December 2012 to tie-in with the implementation of RDR.

Meanwhile they have reminded advisers that they must take into account an operator's ability to re-register assets both onto and off of their platform.

Capital Adequacy requirements

In addition to the RDR related issues in CP 10/2 the FSA also comment on their expectations as to how firms should evaluate their Internal Capital Adequacy Assessment Process (ICAAP), in particular, the issues they should take into account should they need to wind down their operation upon ceasing to trade.

Experience has shown that winding down administrative platforms can be both costly and time consuming. With the possibility of reduced income if a ban on provider rebates is implemented, combined with potentially high capital adequacy requirements, it seems likely that we shall see a consolidation in the platform market going forward.

Next steps

We anticipate a further Consultation Paper on the future of platform regulation during Summer 2010, then a Policy Statement confirming final rules by the end of the year. In addition, a further review of disclosure documentation is planned for the end of 2010 to ensure previously identified examples of poor practice have been rectified.

Professionalism

Will my previous qualifications meet the new criteria?

Possibly! FSA CP 10/14 confirms the final list of appropriate qualifications which may meet the reformed appropriate examination standards (see Appendix 2 of http://www.fsa.gov.uk/pubs/cp/cp10_14.pdf).

The list confirms whether the qualification currently held will meet the new criteria in full, or whether any knowledge gap-filling will be required between the qualification held, and the new QCF Level 4 requirement needed to be obtained by the end of 2012.

What are the deadlines for me to become compliant with the new Level 4 requirement?

Existing advisers deemed competent at 30 June 2009 must ensure they reach the new Level 4 requirement by 31 December 2012. Any adviser who joined the retail investment advice sector after 30 June will have 30 months in which to complete all modules of their qualification from the time the final FSA Policy statement on professionalism is published (expected to be the end of 2010).

Next steps

Further qualifications are expected to be added to the list in a further consultation paper due to be issued in October 2010, including international and European qualifications.

Alternative assessments – any qualification tested by non-written means will need FSA consideration before it can be added to the list. It is anticipated that any new confirmed alternative arrangements will be detailed in the final FSA policy statement on professionalism due in December 2012.

Continued Professional Development. What is meant by qualification gap filling and how does this differ from ongoing CPD requirements?

Qualification gap filling (also known as 'CPD Top Up') is the process by which advisers can bridge any gaps between the qualifications currently held and the Level 4 requirements.

Individual advisers are not expected to carry out their own gap assessment and instead it is anticipated that qualification bodies will set out individual guidance on ensuring compliance with the new requirements.

The FSA announced in CP 10/14 that, with effect from 1 January 2013, all full time retail investment advisers must complete a minimum of 35 hours of 'appropriate CPD' each year.

There must be a focus on learning outcomes and at least 21 hours must involve 'structured learning' with verifiable and measurable activities and, where possible, outputs.

FSA expect advisers to consider development needs; undertake activity to achieve the desired outcomes, record and monitor such activity; review via evaluation and reflection activities undertaken and outcomes achieved; then reassess and agree future development needs.

Statements of Professional Standing. What is it and how do I obtain one?

Within CP 10/14, the FSA has proposed the creation of a Statement of Professional Standing (SPS) certificate, which advisers will be required to hold in order to practice. The SPS would confirm advisers are suitably qualified, have kept their knowledge up to date (CPD) and follow a code of ethics.

The SPS will be issued by 'accredited bodies' and it is anticipated that existing professional bodies will apply for accreditation. The CP also sets out the content of the SPS (para 3.17) and the FSA's expectations of those bodies who wish to be deemed as accredited (para 2.20).

Do I need to join a Recognised Professional Body?

Whilst it will not be compulsory to join a Recognised Professional Body (RPB), in practise it may be difficult to operate without this, given the requirement to obtain an SPS to be able to practice. Much will depend on which parties apply to be accredited as per above.

For further information:

- Contact your **Account Manager**
- Visit www.scottishwidows.co.uk/rdr





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