

## **Retail Distribution Review Regulatory Briefing**

### **Introduction**

This Regulatory Briefing is issued following the publication of the FSA's Consultation Paper CP 09/18 in June 2009. In addition to setting out its proposals, it contains the draft handbook text. This is the latest step in a process which started in June 2006.

### **Summary**

The three key areas tackled by the review are:

- Providing greater clarity for consumers through distinguishing between **independent advice** and **restricted advice**. The latter term is being given to all forms of non independent advice, irrespective of the way they are restricted. In addition to affirming the difference between the two, FSA is determined to ensure that firms describing their advice as independent do consider all relevant options, products and providers. Such advice must be free from any restriction or bias affecting the making of such recommendations.
- Raising professional standards requiring all investment advisers to be qualified to a higher level equivalent to the first year of a degree. A Code of Ethics for Advisers will also be introduced as will an enhanced level of Continuing Professional Development. The new standards will be maintained and enforced by a new Professional Standards Board on which the FSA will consult during the final quarter of 2009.
- Tackling the potential for adviser bias caused by remuneration. In future, advisers will have to set their own charges in agreement with their customers by a process known as adviser charging. The previous system where advisers have been paid commission from the product provider, or where the process has allowed advisers to take the cost of advice to from the product, will no longer be allowed.

### **Who Will It Affect?**

This is a broad document and it will affect all regulated firms and appointed representatives in the manufacture and distribution of retail investment products. The scope of the proposals is wide. It covers all those advising retail clients on products currently classified as packaged products; annuities, regulated collective investment schemes, investment trust savings schemes, life assurance

- Compliance
- Internal Audit
- Risk Management
- Corporate Governance

Visit our online bookshop or access our revolutionary on-line Money Laundering training system at [www.cpaaudit.co.uk](http://www.cpaaudit.co.uk)

CPA Audit is a trading name of CPA Audit LLP, a Limited Liability Partnership registered in England and Wales.  
Partnership number: OC314819. Registered office: Talbot House, 8-9 Talbot Court, London, EC3V 0BP.

policies with an investment component and certain types of pension policies. In addition, it will cover unregulated collective investment schemes, all investments in investment trusts and structured investment products. The reason for this wider application is to reflect the developments in the UK investment markets in recent years and fits with a desire on the part of the European Commission that all retail customers should receive equivalent protection whichever kind of investment is purchased.

At this stage, the FSA are not including General Insurance and Mortgages. However, consideration is being given to including Protection General Insurance at some stage and the current review of Mortgage Regulation will take RDR into account.

### **The Future Face of Advice**

In future, the FSA want to set a new standard to ensure that independent advice is exactly that, considering a broad range of products that consumers might expect to have been considered when reaching the advice decision.

Independent Advisers will have to consider a broader range of products than currently, going beyond packaged products. They will have to provide unbiased, unrestricted advice based on a comprehensive and fair analysis of the relevant market. All advisers will have to ensure that customers are aware from the outset whether the advice they are to receive is independent or restricted.

The new term, Retail Investment Products, includes all items covered in the section above on "Who Will It Affect?". Effectively, it is all investments offering exposure to underlying assets, but in a packaged form which might modify the risk exposure compared to that which would be the case if the customer held a direct holding in the same asset.

Independent Advisers must undertake comprehensive research of the whole market on which they advise. They must have sufficient knowledge of all products available and their suitability in various circumstances to give appropriate advice. Further, they must not have any contractual agreement with or obligations to a product provider which might restrict the ability to select the best outcome for the customer. If this were to be the case, then the Adviser would have to disclose that their advice would be restricted and in what way.

With regards to disclosure of the kind of advice to be received, all firms will have to make written disclosure before advice is given. In the case of restricted advice, oral disclosure will also be required.

### **Professional Standards.**

The current benchmark for professional standards is set at Level 3 which is the standard of an A Level or the current Financial Planning Certificate. This will be replaced by a requirement to hold a Level 4 Diploma by the end of 2012. The standards will be overseen by the Professional Standards Board who will also ensure the quality of Continuing Professional Development is maintained. Anyone operating in the market affected by the RDR will have to meet the Level 4 Diploma standard qualification requirements. Potential candidates are encouraged to make an early start and to acquire their Level 4 qualification, allowing for the fact that there may ultimately be areas that

are not covered within existing qualifications. FSA are offering what they describe as a "no regrets policy" which will enable candidates to top up any gaps in required knowledge via the CPD programme, also by the end of 2012. This will particularly apply to areas covered by PRIP's (Packaged Retail Investment Products), the work already started by the European Commission on retail investment product regulation.

It is recognised that some more experienced personnel may not wish to undertake the examination route. FSA propose an oral alternative which will be as robust as the written examination. This alternative will only be available to those people who were investment advisers on 30th June 2009 and the facility will be withdrawn at the end of 2012.

Details of proposed thinking with regards to Continuing Professional Development are set out in the CP. In short, FSA believe that this should:

- Address gaps in technical knowledge
- Cover standards of ethical behaviour
- Be relevant to the advisers role
- Address other development needs
- Be a minimum of 35 hours per year (100 hours over a 3 year period)
- Use structured and unstructured activity in a rough proportion of two thirds /one third

### **Adviser Charging**

FSA proposes in future that advisers should:

- Only be paid for services provided
- Only require on-going charges where service has been agreed, except for regular contribution products
- Provide clients with scale of charges ahead of giving advice and precisely what services those charges are providing

In addition, product providers will be banned from offering commission to advisers. This will mean that advisers will have to discuss charges and how they will be paid at outset with the customer. When it comes to setting charges, the FSA expects that adviser charges:

- Will not vary inappropriately according to product provider recommended by the firm
- Will not vary inappropriately according to product offered
- Will not be influenced by existence of an agreement by product providers to collect adviser charges. This is a service which can be provided by product providers

The transition can start now and be implemented at any time between now and the end of 2012 when the full result of the Retail Distribution will come into effect. It is recognised that systems constraints may require a gradual move over from the current system.

### **What Action Should Be Taken?**

Each firm dealing with Retail Clients should review the requirements of this Consultation Paper and determine the potential impact on their operation.

For further guidance on this matter, please contact your usual CPA contact. If you would like to read the Consultation Paper in full, or comment on it to the FSA, it can be accessed via this link:

[http://www.fsa.gov.uk/pubs/cp/cp09\\_18.pdf](http://www.fsa.gov.uk/pubs/cp/cp09_18.pdf)

© CPA Audit LLP July 2009