

Application of the RDR to the Asset Management Sector

Background

The Retail Distribution Review (“**RDR**”) is a key part of the FSA’s consumer protection strategy. Its aim is to establish a resilient, effective and attractive retail investment market that consumers can have confidence in and trust at a time where they need more help and advice with retirement and investment planning.

The RDR aims to ensure that consumers:

- are offered a transparent and fair charging system for the advice they receive;
- are clear about the service they receive; and
- receive advice from highly respected professionals.

The changes introduced by the RDR will come into effect on 31 December 2012 and will apply to all advisers in the retail investment market, regardless of the type of firm they work for (for example, banks, product providers, independent financial advisers, wealth managers or stockbrokers).

There are a number of strands to the RDR and we expect guidance to be published by various bodies (including trade associations) on the RDR in the run-up to implementation at the end of 2012 as the market approaches evolve to reflect the new regime. We have set out below more detail of the proposals that are likely to affect asset managers.

Adviser charging

The FSA’s new rules on adviser charging, which come into force on 31 December 2012, will make adviser remuneration more transparent, so clients will know exactly what they will be paying for.

The new adviser charging rules mean that all firms that give retail investment advice will have to:

- set their own charging structure;
- have a charging structure based on the level of service that they provide;
- disclose charges to clients upfront, using some form of price list or tariff; and
- deliver an ongoing service when an ongoing fee is levied, unless the product is a regular payment one.

The FSA considers that fund manager charges will fall as a consequence of RDR. The FSA expects that annual management charges (“**AMC**”) are likely to have to be reduced to reflect the fact that the client will be paying the adviser separately, and any discounts negotiated would be starting from the reduced AMC.

Set out below are some of the latest publications relating to the FSA’s adviser charging proposals:

- Final rules on adviser charging - FSA Policy Statement 10/6 “Distribution of retail investments: Delivering the RDR.” See chapter 4 and in particular paragraphs 4.24 - 4.29 and 4.31 - 4.32.
http://www.fsa.gov.uk/pubs/policy/ps10_06.pdf
- Consultation on adviser charging proposals and discussion of the background to the proposals - FSA Consultation Paper 09/18 “Distribution of retail investments: Delivering the RDR.” See chapter 4 and in particular paragraphs 4.1 - 4.24.
http://www.fsa.gov.uk/pubs/cp/cp09_18.pdf
- Speech by Peter Smith, Head of Investments Policy on 14 January 2011 entitled “the retail investment market: the RDR and beyond.”
http://www.fsa.gov.uk/pages/Library/Communication/speeches/2011/0114_ps.shtml

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Platforms

An area that the FSA recognises as being of growing importance is the platforms market. In November 2010, the FSA published its Platforms consultation paper (CP10/2). The key proposals set out in this paper are:

- a ban on product charges being rebated in cash to consumers;
- improved disclosure of the income platforms receive from fund managers and other product providers;
- new rules to guide advisers on the use of platform services;
- compulsory re-registration of investments from platforms and other nominees; and
- new rules to require platforms and other nominees to pass on fund information and voting rights to the end investor. They will also be required to facilitate the exercise of voting rights.

Platforms will not be able to pay commission in respect of advised services, but will be able to facilitate the payment of adviser charges. This is not commission, as the charge is agreed between the adviser and their client. FSA's proposals aim to bring platform's services in-line with the rules set on scope of service and adviser charging.

As an increasing amount of business is conducted by advisers through platforms, asset managers are likely to see platforms open up access to a wider range of products.

Set out below are some of the latest publications relating to the FSA's platforms proposals:

- Consultation on platforms proposals - Consultation Paper (CP 10/29) "Platforms: Delivering the RDR and other issues for platforms and nominee-related services." See in particular chapters 2, 3 and 5.
http://www.fsa.gov.uk/pubs/cp/cp10_29.pdf
- Discussion Paper (DP 10/2) "Platforms: Delivering the RDR and other issues for discussion." See in particular chapter 3.
http://www.fsa.gov.uk/pubs/discussion/dp10_02.pdf
- Occasional Paper 40: Regulating platform charges
<http://www.fsa.gov.uk/pubs/occpapers/op40.pdf>
- Speech by Peter Smith, Head of Investments Policy on 14 January 2011 entitled "the retail investment market: the RDR and beyond."
http://www.fsa.gov.uk/pages/Library/Communication/speeches/2011/0114_ps.shtml

Independent Advice

The FSA's aim is to ensure that advice is genuinely independent and advisers consider all retail investment products when making a recommendation.

If a firm claims to be independent, from 31 December 2012, it will need to:

- consider a broader range of products (retail investment products);
- provide unbiased and unrestricted advice based on a comprehensive and fair analysis of the relevant market; and
- inform its client before providing advice, that it provides independent advice.

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The FSA has introduced the term “retail investment product” to reflect the range of products that an independent adviser should have knowledge of. The concept of a retail investment product includes structured investment products, all investment trusts, unregulated collective investment schemes and any other investment that offers exposure to underlying financial assets, but in a packaged form, which modifies that exposure compared with a direct holding.

Where a firm gives advice on products from a limited number of providers, or only considers certain types of products, it will need to describe itself as ‘restricted’. The firm will need to disclose in writing and orally, before providing advice, that it provides restricted advice and explain the nature of the restriction.

The requirement to embrace all retail investment products is intended lead to increased openness and an engaged dialogue between investors and their advisers, which should lead to better and more informed relationships for both parties.

Set out below are some of the latest publications relating to the FSA’s proposals on independent advice:

- Discussion Paper (DP07/1) “A review of retail distribution”
http://www.fsa.gov.uk/pubs/discussion/dp07_01.pdf
- Feedback Statement (FS08/6) Retail Distribution Review - Including feedback on DP07/1 and the Interim Report
- Speech by Peter Smith, Head of Investments Policy on 14 January 2011 entitled “the retail investment market: the RDR and beyond.”
http://www.fsa.gov.uk/pages/Library/Communication/speeches/2011/0114_ps.shtml

Professionalism

The FSA hopes that the new professionalism requirements will improve the level of consumer confidence and build general levels of trust in the retail investment sector.

By 31 December 2012, advisers will need to:

- subscribe to a code of ethics;
- hold an appropriate qualification, including any qualification gap-fill;
- carry out at least 35 hours of continuing professional development a year; and
- hold a Statement of Professional Standing (“SPS”) from an accredited body.

These standards will be maintained and enforced by the FSA. Firms will be required to submit data to the FSA about their individual advisers. Accredited bodies will inform the FSA of any advisers who are not meeting the standards required to obtain an SPS. If existing advisers do not meet the standards they will not be able to make personal recommendations to retail customers from 1 January 2013.

The emphasis on adviser qualifications that the RDR is bringing about is likely to lead asset managers to see advisers with a better understanding of the complete range of products on offer. However, bringing advisers up to the required professional standards could be a significant cost burden.

Set out below are some of the latest publications relating to the FSA’s proposals on professionalism:

- FSA’s final rules on professionalism - PS 11/01 “Distribution of retail investments: Delivering the RDR - professionalism.”
http://www.fsa.gov.uk/pubs/policy/ps11_01.pdf

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- Consultation Paper (CP10/14) "Delivering the RDR: Professionalism, including its application to pure protection advice"
http://www.fsa.gov.uk/pubs/cp/cp10_14.pdf
- Speech by Peter Smith, Head of Investments Policy on 14 January 2011 entitled "the retail investment market: the RDR and beyond."
http://www.fsa.gov.uk/pages/Library/Communication/speeches/2011/0114_ps.shtml

Impact of the RDR on Market Structure and Competition

As part of the RDR project, the FSA commissioned reports from Oxera and Deloitte assessing the impact of the RDR proposals on market structure and competition:

- Oxera Report - RDR proposals - impact on market structure and competition
http://www.fsa.gov.uk/pubs/other/oxera_rdr.pdf
- Deloitte Report - Firm behaviour and incremental compliance costs
<http://www.fsa.gov.uk/pubs/other/fbicc.pdf>