

Finalised guidance

Top questions asked at the RDR roadshows

February 2012



These are the most commonly asked questions at our recent RDR roadshows.

Q1. Post 2012, can someone who doesn't have an appropriate RDR qualification carry out a fact-find or other client-related activities?

A. Yes, as long as the individual is not making a recommendation or advising on the merits of buying or selling a particular investment.

Individuals doing other roles within a firm that do not require an RDR qualification will still need to be competent, which may include holding other appropriate qualifications if they are carrying on other activities in Appendix 1 of our Training and Competence (TC) sourcebook.

At the same time, firms need to be very careful to ensure individuals are not inadvertently acting as a retail investment adviser, if they are not qualified to do so. If an individual performs any of the RDR TC activities¹ and so acts as a retail investment adviser – even if this is only on one occasion - then they will still need an appropriate RDR qualification and need to be approved to carry out a CF30 Customer Function.

Q2. In preparing to meet the professionalism requirements, how should advisers expect to get help from accredited bodies?

A. Accredited bodies should meet four high level criteria:

- Acting in the public interest and furthering the development of the profession;
- Carrying out effective verification services;
- Having appropriate systems and controls in place and providing evidence to the FSA of continuing effectiveness; and
- Ongoing cooperation with the FSA.

¹ Advisers in scope of RDR Professionalism are those carrying out activities 2, 3, 4, 6, 12 and 13 in Appendix 1.1 of our TC Sourcebook. These are all activities for retail clients and are advising on securities, derivatives, retail investment products, Friendly Society tax-exempt policies or advising on and dealing in securities and derivatives.

In meeting these criteria accredited bodies will be expected to support firms' compliance with the professionalism requirements. This might include suggesting suitable continuing professional development (CPD) activity or offering examples of when firms might wish to alert them about issues with individual advisers. It will also include alerting the FSA (and firms) to professional standards issues. The FSA will use this and other data to inform its supervisory activity.

A key part of the role is issuing a Statement of Professional Standing (SPS) for each adviser to enable firms to meet their obligation to obtain independent verification of compliance with RDR Professionalism requirements. Accredited bodies will be expected to:

1. check that, if required by TC, all of the retail investment advisers who use their services hold an appropriate qualification, including, where applicable, verifying 100% of their gap-fill; and
2. have a code of ethics that does not conflict with the [Statements of Principle for Approved Persons](#) (APER) and verify that advisers have declared that they have complied with APER; and
3. verify that advisers have declared they have completed their CPD,(if required), and carry out CPD sample checks amongst at least 10% of their advisers. Verification of CPD is not needed for an existing adviser's first SPS as the new CPD rule requirement starts at the end of 2012; and
4. recognise CPD activity from a range of providers, including firms' own in- house schemes.

Accredited Bodies are listed in the FSA's Glossary of definitions.

Q3. What is structured continual professional development (CPD)?

A. Under RDR, firms must ensure that advisers remain competent by completing a minimum of 35 hours of appropriate Continuing Professional Development (CPD) each year (of which at least 21 hours should be structured activities). Structured CPD is also used for qualification gap-fill to enable certain qualifications listed in our Handbook to count as appropriate qualifications for RDR purposes.

Structured CPD is an activity designed to achieve a defined learning outcome using material designed to achieve that outcome. Examples of structured CPD activities include participating in courses, seminars, lectures, conferences, workshops, web-based seminars or e-learning which require a contribution of thirty minutes or more. The distinction from unstructured CPD is that unstructured CPD uses material that is not designed to meet a learning outcome. For example, an opinion about asset allocation expressed in a brief news article is likely to be unstructured but an educational paper designed to set out a balanced view that will add to the adviser's technical knowledge might be considered structured material.

To fulfil the RDR CPD requirements we would suggest that a firm's CPD process includes the following steps:

1. identify the learning need;
2. identify the method to fill that learning need;

3. carry out and record the activity; and
4. reflect upon and record the outcome of the activity.

All CPD should be measurable and capable of being independently verified by an accredited body. All qualification gap-fill will need to be verified by an accredited body.

To verify an adviser's CPD or qualification gap-fill an accredited body will need to verify that the activity has been carried out and will need to decide what it is prepared to accept as evidence. It is for accredited bodies to determine the basis on which they want to check advisers' activity. This may be from self certification right through to reviewing every item of supporting evidence for each learning need.

It is not an FSA requirement that learning from structured CPD must be examined, either for gap-fill or ongoing CPD purposes, but firms should encourage advisers to consider and reflect on the activity to determine if they have developed the right knowledge.

Whilst structured CPD can include reading, we would only expect this to be used in a minority of gap-fill or ongoing CPD activities, and it should comprise educational reading where quality reading material has been produced to meet the required learning outcome. Some accredited bodies may wish to require activities such as reading to be accompanied by some form of formal test. Others may wish to rely on a self-declaration that the adviser has carried out the reading activity, reflected on it and has declared that they have met the particular learning outcomes.

Q4. If I consider a product, but I don't feel comfortable recommending it due to its risky nature, can I still call myself independent?

A. A firm should only hold itself out as giving independent advice if it is prepared to provide advice on all types of retail investment products that may be suitable for their clients. Such a firm may, however, after considering the market, take the view that certain retail investment products are unlikely to be suitable for their client base. If this is the case, then that firm would not need to carry out a comprehensive review of the market for these products for each of their clients. We would not expect firms when forming advice for a client to review the market for a product that would not be suitable, let alone to recommend such a product.

For example, firms may consider Unregulated Collective Investment Schemes (UCIS) too risky for the clients they usually deal with, and we would not expect a firm to recommend these just to prove they are offering independent advice. The reason for not advising on certain retail investment products needs to be because they would not be suitable for a firm's clients.

Q5. If a firm has three advisers who give restricted advice, but as a team they can advise on all retail investment products, can the firm hold itself out as independent?

A. No one in a firm that holds itself out as independent should make a personal recommendation to a retail client unless that personal recommendation is based on a comprehensive and fair analysis of all types of retail investment products which may be suitable for that client.

Q6. Where a limited company has ‘independent’ in its registered name, but will not offer an independent service in the future, will they need to apply for authorisation again?

A. If any advice provided by a firm does not meet the standard for independent advice, they should not have ‘independent’ in their firm name. If a firm needs to change its name when the RDR rules are in force, but the regulated activities undertaken and or the scope of permissions will stay the same, the firm needs to complete a [standing data change](#) form and will not need to apply for a new FSA authorisation. Prior to the submission of this form to the FSA, a firm will need to ensure that it has completed all other steps necessary to effect a change in the firm’s name. For example, companies registered with Companies House will normally need to file a change of name application with Companies House (after having taken into account the restrictions, controls and requirements on using certain words and expressions in a company name).

Q7. Can you explain what (g) is in the list of retail investment products?

A. The full list of retail investment products is:

- (a) *a life policy;*
- (b) *a unit;*
- (c) *a stakeholder pension scheme (including a group stakeholder pension scheme);*
- (d) *a personal pension scheme (including a group personal pension scheme);*
- (e) *an interest in an investment trust savings scheme;*
- (f) *a security in an investment trust;*
- (g) *any other designated investment which offers exposure to underlying financial assets, in a packaged form which modifies that exposure when compared with a direct holding in the financial asset; and*
- (h) *a structured capital-at-risk product.*

The inclusion of (g) means that our rules capture advice on products that do not fit within (a) to (f) and (h), but which produce broadly comparable economic effects for retail investors as other retail investment products.

Q8. What is meant by relevant market in the context of independent advice?

A. A relevant market should comprise all retail investment products which are capable of meeting the investment needs and objectives of a retail client. To use the example of ethical products, for clients who only want these, it is clear that a range of products would never be suitable for them, namely non-ethical products. The relevant market for these clients would not include all retail investment products, but would include all ethical retail investment products. Relevant markets are defined by client needs, not by any other factor.

We expect it to be rare that an adviser could completely rule out advising on certain types of retail investment products on the basis that they will not be suitable for any of their clients, and to limit

their advice to a particular relevant market. If they can identify a narrower relevant market, they should not hold themselves out as offering independent advice in a broader sense.

Q9. If I charge 1% for a £50,000 investment and 1% for a £250,000 investment and the work is the same, am I not going against the principle of treating customers fairly?

A. The charge should reflect the service provided. It is up to the adviser whether they charge a flat fee, hourly fee or percentage. The charging structure must be shown to the client in good time before the service is provided.

The costs should be clearly disclosed and explained to the client, so that the customer understands the charges and agrees them.

Q10. We can only receive an ongoing income for an ongoing service, post RDR. I have agreed a service level with some of my clients, which involves them being 'on the books' and I am available on a reactive basis to deal with any issues that arise. Is this acceptable under adviser charging?

A. No. To be able to make an ongoing charge, the service must be a genuine service for the provision of personal recommendations or related services and not just, for example, a vague statement (even if agreed with the client) that the adviser is available on the end of a phone at any time.

It is also acceptable, however, where a recommendation is for a regular payment product, that the adviser charge can be payable over time, without further ongoing advice.

Q11. If my firm does not employ a pension transfer specialist, does that mean my firm cannot hold itself out as independent?

A. A pension transfer specialist is defined in the Handbook as an individual appointed by a firm to check the suitability of a pension transfer or pension opt-out who has passed the required examinations. Pension transfers and opt-outs in this context are narrowly defined, predominately relating to the transfer or opt-out of an occupational pension scheme in favour of a personal pension or stakeholder pension. Firms must have a separate permission to provide advice on a pension transfer or opt-out.

If a firm does not have the advising on pension transfer and opt-out permission, they can still give independent advice. This is because such a firm will not be constrained in their ability to advise on all retail investment products, as occupational pension schemes are not captured by the retail investment product definition.

Although our current message is that a firm should start by assuming a transfer or opt-out is not suitable for a retail client, all competent advisers who give independent advice should be able to identify clients for whom a pension transfer or opt-out should be considered, and be in a position to refer clients to an external pension transfer specialist if necessary.

Further information

[RDR web pages](#)