

## Guidance consultation

# Top questions asked at the Retail Distribution Review (RDR) roadshows

August 2011



## Top questions asked at the RDR roadshows

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 personal recommendation or advising on the merits of buying or selling a particular investment. Individuals doing other roles within a firm will still need to be competent, which includes holding other appropriate qualifications for other activities described within 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.

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

**A.** Accredited bodies will help firms meet the professionalism requirements and will issue retail investment advisers with their Statement of Professional Standing (SPS). Firms must obtain an SPS for each retail investment adviser from the end of 2012. Accredited bodies will be expected to:

1. check that, if required to by TC sourcebook, all of the retail investment advisers who use their services hold an appropriate qualification, including verifying 100% of their gap-fill where required;
2. verify that all of the retail investment advisers who use their services have declared that they have complied with the [Statements of Principle for Approved Persons](#) (APER) and have a code of ethics that does not conflict with APER;
3. suggest suitable continual professional development (CPD) activity, verify that advisers have declared they have completed their CPD and carry out random, 10% CPD sample checks (the

body can exceed this requirement if they choose). We don't expect advisers to be doing 35 hours CPD in the 12 months before the first SPS is issued, 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 will also be expected to alert the FSA to any issues they become aware of with individual advisers, to inform FSA supervisory activity.

We consulted on the first list of accredited bodies in June 2011, and after analysing feedback we will add the names of those we decide to accredit to the Handbook later in 2011. There will be subsequent consultations as we accredit more bodies.

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

**A.** Structured CPD is designed to achieve a defined learning outcome and, like unstructured CPD, is capable of being independently verified. To fulfil the CPD requirement, we would expect firms to:

1. identify the learning need;
2. identify the method to fill that learning need;
3. be able to demonstrate that the learning need has been filled; and
4. document the structured CPD activity.

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. Structured CPD does not have to include an examination or a test. It could include, for example, a situation where an adviser identifies a gap and a compliance consultant offers specific training to fill that gap – this could count as structured learning. There has been discussion about whether reading is a structured activity. It is our policy intent, that whilst structured CPD can include reading, we only expect it to be used in a minority of ongoing CPD activities, and it must comprise educational reading where quality reading material has been produced to meet the required learning outcome.

### **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, after considering the market, may take the view that certain products are not suitable for their client base and not carry out a comprehensive review of the market for these products for each of their clients. 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 their independence. If the product is not suitable for a client, for example it does not match their risk profile, it should not be recommended. However, a firm should be aware that there may be some clients who these products are suitable for, and the firm should be able to recommend them if this is the case.

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

**A.** No. 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 retail investment products in the market.

Clearly a restricted adviser is not able to provide a personal recommendation based on a comprehensive and fair analysis of all retail investment products in the market.

**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.** A firm does not need to apply for a new FSA authorisation.

Where a firm is simply changing its name with no impact on the regulated activities undertaken or the scope of permissions, the firm needs to complete a [standard data change](#) form.

**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. Therefore, 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 specialised relevant markets to be relatively rare.

**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.** Where the ongoing charge is for an ongoing service (instead of relating to a regular payment product) it is up to the adviser and client to agree the ongoing service and the charge for that service. However, 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 that the adviser is available on the end of a phone at any time.

However, it is also acceptable, 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 firm can be independent even if they don't have a pension transfer specialist, because this should not constrain the extent to which a firm can consider personal pensions in giving advice to their clients. However, all qualified advisers should be able to identify clients for whom a pension transfer or opt-out may be suitable, and be in a position to refer clients to an external pension transfer specialist if they do not have in-house expertise.

#### **Further information**

[RDR web pages](#)