

Guiding the Profession on RDR



FSA March 2010 RDR Papers: Delivering the RDR, Platforms and Pure Protection

A Closer Look at the Key Proposals

April 2010

Summary

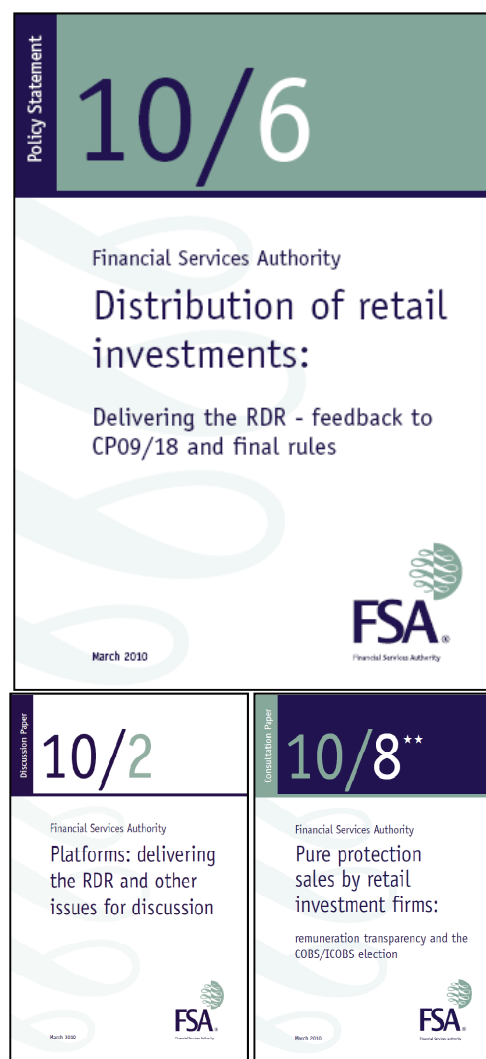
In March 2010, the FSA published a suite of papers outlining their thinking and next steps for retail investment distribution under the Retail Distribution Review (RDR):

- [Policy Statement 10/6: Delivering the RDR](#) – sets out the FSA’s final decisions on retail investment advice including describing and disclosing advice services, remuneration, FSA supervision strategy and next steps;
- [Discussion Paper 10/2: Platforms and Other Issues for Discussion](#) – seeks views on options on how the FSA should regulate platforms, either in supporting the RDR objectives or in addressing other issues as identified by thematic research.
- [Consultation Paper 10/8: Pure Protection Sales by Retail Investment Firms](#) – proposes that firms offering pure protection policies as part of investment advice must explain how they are remunerated.

This briefing provides a closer look at the key proposals and pulls together the implications of the three papers for investment advisers:

- **To whom do these changes apply?** summarises the scope of the changes.
- **Why are these documents important?** provides an overview of the main proposals.
- **Independent and Restricted Advice:** the new approach to describing adviser services, and how the FSA expect firms to make the transition.
- **Remuneration and Adviser:** how firms will be remunerated for giving investment advice, how Adviser Charging would work and when it would apply, and remuneration for pure protection when sold as part of investment advice.
- **Professionalism:** an update on the developments from earlier consultations.
- **Next steps:** summarises the proposed timeline until 2013 leading to the implementation of the proposals, and what the FSA will be doing in the meantime.

Please note that this document does not set out the views of the Chartered Insurance Institute or the Personal Finance Society. For more information, see our [Overview of Key Proposals](#). For a background on the RDR developments since 2007, see our briefing: [RDR: A Background](#).



To whom will these changes apply?

To all those who advise and sell *most* types of investment products to the public: either directly to consumers; or indirectly via group schemes.

In addition to covering “packaged products” *currently* within the scope of the COBS, including:

- collective investment schemes;
- investment savings trust schemes;
- life assurance policies with an investment component; and
- certain types of pensions

The COBS would be amended to *also* include a wider range of retail investment products, namely:

- unregulated collective investment schemes;
- all investments in investment trusts; and
- structured investment products

The FSA are currently proposing to apply some of these changes to those advising and arranging Group Personal Pensions and their alternatives: in their earlier consultation in December 2009 (closing March 2010), the regulator proposed applying “consultancy charging” to the market for group personal pensions, group stakeholder pensions and group self-invested personal pensions (referred collectively as group personal pensions).

Why are these proposals important?

The changes set out or proposed in these latest FSA documents will significantly impact the way retail investment products will be sold, as well as the status and remuneration of those who transact these products. It also implicates related products such as protection insurance which could be sold with investments as part of the transaction.

Policy Statement 10/6: Delivering the RDR:

The Policy Statement takes forward the issues raised in mid-2008 in [FSA CP09/18 on Delivering the RDR](#), and covers the following areas:

- describing and disclosing advice services to consumers, including the new standard for firms wishing to call themselves independent
- consumer access to advice, streamlined advice processes and non-advised services;
- adviser charging and inducements – FSA requirements for adviser firms, product providers and vertically integrated firms, and the FSA’s approach to non-advised services;
- the FSA’s strategy for supervising the new requirements, including during the transition; and
- a summary of new Cost Benefit Analysis.

Discussion Paper 10/2: Platforms and Other Issues for Discussion:

Given the increasing prominence of wrap platforms in the retail investments market, the FSA believes that special issues arise in this market warrant specific regulatory attention and explanation of how the RDR especially apply. It follows on from an earlier [Discussion Paper](#) in 2007, feedback statement [FS08/1: Platforms and more principles-based regulation](#), as well as

a [Thematic Review on Investment Advice and Platforms](#) that took place in 2009 and reported in March. The present discussion paper DP10/2 on platforms explores:

- ways of ensuring that the RDR proposals are not undermined by wraps, particularly adviser charging;
- how platform providers should be remunerated for the services they provide in connection with advised sales. This is to prevent advisers switching investments as a result of indirect incentives that wraps may offer;
- the delivery of adviser charging through platforms, ensuring that the principles of investor choice are not undermined or restricted by the use of wraps; and
- the use of platforms by advisers providing independent or restricted advice.

Consultation Paper 10/8: Pure Protection Sales by Retail Investment Firms:

The RDR also implicates retail investment firms transacting pure protection products associated with the investment advice. The regulator's [CP09/18 in mid-2009](#) discussed the implications of the RDR on pure protection, and now the present consultation CP10/8 examines this complex issue and how remuneration should be treated:

- The FSA had previously considered whether commission from the sale of these products should also fall within the proposals for the RDR, if nothing else but to ensure some consistency in the same transaction in the eyes of consumers.
- The FSA's CP10/8 decides against simply transposing the adviser charging requirement and instead places a requirement for firms to explain how they are remunerated for pure protection services.

Independent versus Restricted Advice

The FSA has gone ahead with proposals to require that firms describe their advice services as either 'independent' or 'restricted', and to update their rules setting out what is expected of a firm that describes its advice as being independent.

Independent Advice

Firms describing themselves as "independent" would need to demonstrate in each transaction that they meet three core criteria:

- **Comprehensive and fair analysis of the relevant market:** as stated in the CP09/18 consultation, the range of products to which the FSA rules apply has been widened so firms providing such independent advice would be expected to take this wider market into account. A "relevant market" should "comprise all retail investment products that are capable of meeting the investment needs and objectives of a retail client." (PS10/6, p.14)
- **Product selected in accordance with the client's best interests rule:** it must be able "to demonstrate clearly why it feels a particular market, product, or class of products is not suitable for its clients" (PS10/6, p.13).
- **Meeting the FSA's unbiased and unrestricted analysis requirement:** especially when recommending their own product. For example, the FSA would be particularly vigilant of "firms recommending their own product or the product of a parent company as this would not be consistent with the unbiased standard" (PS10/6, p.13).

With respect to advice on platforms, the FSA is of the view that only multiple platforms (ie platforms or wraps that use products from multiple providers) meet the criteria for independent status. However they "recognise that some [multiple platforms] are unlikely to be suitable for many consumers" (DP10/2, p.16).

Restricted Advice

Advice that does not meet the three criteria for the Independent label will be classed as 'restricted advice' and be labelled accordingly.

- **Labeling concerns:** to address concerns about potential connotations of the word 'restricted', the FSA propose that the 'restricted' label be accompanied by a short description to help a customer understand the service that was being provided. The FSA have decided to retain this label for firms as they believe "firms providing non-independent advice are restricting their services in some way, and the term 'restricted advice' is an accurate description of this fact and consumers should be aware of this" (PS10/6, p.15).
- **Oral disclosure:** the FSA has done away with the proposal for mandatory wording that firms will need to use when describing the nature of restricted advice. However, it will still be necessary for a firm to disclose orally that it provides restricted advice and the nature of that restriction. While the FSA recognises the risk that firms may look to circumnavigate the rules by using a misleading set of words, this risk would exist regardless of whether there is a mandated wording.
- **Suitability requirements:** are still necessary for a firm giving restricted advice. It is not acceptable for a firm to recommend a product that most closely matches the needs of the customer, from the restricted range offered, when that product is not suitable. The FSA has set out guidance in COBS 6.2A.22(2)G to remind firms of their obligation to establish and maintain appropriate systems and controls when providing restricted advice.
- **Other services:** it is not necessary to specifically inform a client receiving restricted advice that independent advice is also available: it is likely to be clear from the disclosure that is given to the client (e.g. in the Services and Costs Disclosure Document).

Remuneration and Adviser Charging

The FSA has gone ahead with **proposals to introduce a system of 'Adviser Charging'**, which will involve all firms that give investment advice to retail clients setting their own charges. Once the rules come into effect, **adviser firms will no longer be able to receive commissions set by product providers** in return for recommending their products, but will have to operate their own charging tariffs in accordance with the new rules. Should they wish to do so, providers will be able to facilitate the collection of adviser charges through the product on a matched basis.

The FSA has also made some changes to its rules and guidance on inducements, to reflect the introduction of Adviser Charging and ensure that it cannot be circumvented by firms being paid through 'soft commissions'.

Adviser Charging Requirements for Firms that Give Advice



- **Creating and Using a Charging Structure:** charges should be based on the services provided, rather than on the type of products sold. The FSA state that it is important for firms to take responsibility for the charging structures that they adopt, in accordance with this basic principle, and will have further discussions with trade bodies over the coming months on the creation and use of charging structures and whether there is a need to publish examples of good and poor practices

Example of Firm Charging Structure

Service	Initial charge	Ongoing charge for twice yearly reviews
Review of your pension arrangements (pre-retirement)	Charged at £100 per hour (exc. VAT) - approx. 4-6 hours	
Advice on what to do with your pension fund (at retirement)	Charged at £130 per hour (exc. VAT) - approx. 2-3 hours	
Where to put your savings (for those with up to £25,000 to invest)	3% of your investment, if you go ahead with our recommendations	Service available on request for 0.5% of your investment per year

Source: PS10/6, Annex B (Amendments to COBS Sourcebook). p.32.

- Ongoing Charges:** the rules include guidance that states, if an ongoing charge applies for an ongoing service, the firm should clearly confirm the details of the ongoing service, its associated charges, and how the retail client can cancel the service and cease payment of the associated charges. “Firms should explain the details of the ongoing service, and its associated charges, in a way that is clear, fair, and not misleading. Where an ongoing review service is offered, firms will need to establish and maintain appropriate systems and controls to ensure that their clients receive the ongoing services they have agreed to and are paying for.” (PS10/6, p.27).

<p style="text-align: right; font-size: small;">FSA 2010/12</p> <div style="display: flex; justify-content: space-between; align-items: center;"> <div style="text-align: left;">  <p>about our services and costs [Note 1]</p>  <p>Financial Services [Note 2]</p> </div> <div style="text-align: right;"> <p>[Note 3]</p> <p>[123 Any Street Some Town ST21 7QB]</p> </div> </div> <hr/> <p>1. The Financial Services Authority (FSA)</p> <p>The FSA is the independent watchdog that regulates financial services. This document is designed by the FSA to be given to consumers considering buying certain financial products. You need to read this important document. It explains the service you are being offered and how you will pay for it.</p> <hr/> <p>2. Which service will we provide you with? [Note 4] [Note 5]</p> <p><input type="checkbox"/> Independent advice – We will advise and make a recommendation for you after we have assessed your needs. Our recommendation will be based on a comprehensive and fair analysis of the market. [Note 6]</p> <p><input type="checkbox"/> Restricted advice – We will advise and make a recommendation for you after we have assessed your needs, but we only offer products from one company or a limited number of companies. [Note 7].</p> <p><input type="checkbox"/> No advice – You will not receive advice or a recommendation from us. We may ask some questions to narrow down the selection of products that we will provide details on. You will then need to make your own choice about how to proceed.</p> <hr/> <p>3. What will you have to pay us for our services? [Note 8]</p> <p>[You will pay for our services on the basis of [insert charging arrangements [Note 9]]. We will discuss your payment options with you and answer any questions you have. We will not charge you until we have agreed with you how we are to be paid. [Note 10]]</p> <p>[non-advised services: [Note 11 -13]]</p> <p>[Advised services [Note 14]]</p> <p>The cost of our services [Note 15-17]</p> <p>Your payment options [Note 18]</p> <p>[Settling your adviser charge through a single payment [Free text Note 19]]</p> <p>[Settling your adviser charge by instalments [Free text Note 20]]</p> <p>[Paying by instalments through your recommended product [Free text Note 21]]</p>	<p style="text-align: right; font-size: small;">FSA 2010/12</p> <p>[Paying through other arrangements [Free text Note 22]]</p> <p>[Keeping up with your payments [Free text Note 23]]</p> <p>[Payment for ongoing services [Free text Note 24]]</p> <p>[Other benefits we may receive [Note 25]]</p> <hr/> <p>4. Who regulates us? [Note 26]</p> <hr/> <p>[ABC Financial Services] [123 Any Street, Some Town, ST21 7QB] [Note 27] [Note 28] is authorised and regulated by the Financial Services Authority. Our FSA Register number is []. [Note 29]</p> <p>Our permitted business is []. [Note 30]</p> <p>[or] [Note 31]</p> <p>[Name of appointed representative or tied agent] [Note 2] is [an appointed representative or a tied agent] of [name of firm] [address of firm] [Note 27] [Note 28] which is authorised and regulated by the Financial Services Authority. [Name of firm's] FSA Register number is []. [Note 29]</p> <p>[Name of firm's] permitted business is [] [Note 30] [Name of appointed representative or tied agent] is regulated in [an EEA state or the United Kingdom]. [Note 29]</p> <p>You can check this on the FSA's Register by visiting the FSA's website www.fsa.gov.uk/register or by contacting the FSA on 0845 606 1234. [Note 29]</p> <hr/> <p>5. Loans and ownership [Note 31]</p> <hr/> <p>[[XXX plc] owns [YY]% of our share capital.]</p> <p>[[XXX plc] provides us with loan finance of [YY] per year.]</p> <p>[[XXX] (or we) have [YY]% of the voting rights in [ZZZ].] [Note 32][Note 33][Note 34][Note 35]</p> <hr/> <p>6. What to do if you have a complaint [Note 26]</p> <hr/> <p>If you wish to register a complaint, please contact us:</p> <p>...in writing Write to [ABC Financial Services], [Complaints Department, 123 Any Street, Some Town, ST21 7QB].</p> <p>... by phone Telephone [0121 100 1234]. [Note 36]</p> <p>If you cannot settle your complaint with us, you may be entitled to refer it to the Financial Ombudsman Service. [Note 37]</p> <hr/> <p>7. Are we covered by the Financial Services Compensation Scheme (FSCS)? [Note 26]</p> <p>[Note 38] [Note 39]</p>
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Example of Services & Costs Disclosure Document as in COBS 6.3.7G(1): PS10/6, Appendix 1, p.27.

- Use of Credit to Pay for Charges:** the use of credit to pay for adviser charges “will not be in the best interests of clients in many cases, and the FSA rules now make clear that a firm may not offer credit facilities for the purpose of paying adviser charges unless this would be in the best interests of the client” (PS10/6, p.29).

Legacy Business and Transition to Adviser Charging

The new Adviser Charging rules only apply to business conducted after the end of 2012, so adviser firms will face the practical challenge of distinguishing between old and new business, in order to determine whether or not they can continue to receive legacy commission on products sold in the past.

Firms would be expected to assess whether:

- the product in question is essentially unchanged, but has been amended or extended under options available to the customer from inception, in which case commission can continue to be paid; or
- the change is such that it leads to the product becoming a different product, or
- requiring a new contract with the customer, in which case the new Adviser Charging rules will apply (PS10/6, p.29).

Adviser Charging for Product Providers

The FSA is going ahead with their proposals outlined in CP09/18:

- **a ban on providers offering commission for advised sales;**
- rules for providers willing to facilitate payment of adviser charges through the product, including a requirement to offer sufficient flexibility in terms of the charges they facilitate so that advisers are not constrained in the charges they can make;
- requirements for **providers to validate the client's instructions and monitor adviser charges to ensure** they are not so high that the product cannot meet its purpose;
- a requirement for a **provider not to pay out or advance adviser charges to an adviser firm over a materially different time period**, or on a materially different basis to that in which it recovers the adviser charge from the client (known as 'factoring'); and
- **a ban on initial allocation rates of over 100%** (where a provider offers to allocate more than 100% of a customer's investment).

Other issues relevant to this include:

- a) **Actively monitoring adviser charges** (PS10/6, pp.30-32):
 - *Monitoring effect on products of the levels of adviser charges deducted:* the FSA have not gone ahead with their proposal requiring providers to do this. Instead they have clarified in the Handbook text that adviser firms need to consider whether a client is likely to be able to benefit from the advice given, taking into account the likely adviser charge the client will pay.
 - *Obtaining and validating client's instructions:* the FSA have however gone ahead with this requirement for providers. This means that before a product provider deducts adviser charges from a client's investment, it will need to make sure it has received clear instructions from the client about the money to be taken.
- b) **Implementation options open to fund managers and other product providers** (PS10/6, pp.32-33)
 - *Application of ban on product providers determining adviser remuneration:* the FSA think this is vital. If providers wish to facilitate the collection of upfront adviser charges, fund managers – like other product providers – could do so by arranging for money to be deducted from the total amount received from the customer, and paid to the adviser firm, before it is invested. These "will generally only be payable in situations where an ongoing service is provided by the adviser" (PS10/6, p.33).
 - *Implications for platforms:* given the potential for the RDR to accelerate the trend towards the use of platforms, the FSA discussion paper DP10/2 considers whether additional requirements should be placed on platforms that facilitate payment of adviser charges. They "remain open minded to firms using a range of other mechanisms to facilitate the collection of adviser charges, and will work with any firms that feel they face regulatory barriers to developing practical solutions in this area" (DP10/2 Platforms, p.10-11).
- c) **'Factoring' adviser charges**
 - 'Factoring' occurs where a product provider pays the adviser the full amount of their adviser charge upfront at a discounted rate, and then recovers this payment over time through the product.
 - The FSA has gone ahead with the ban on factoring and made clear in its rules that it applies to both product providers and advisers (PS10/6, pp.34-35).
 - The rules give adviser firms the option of allowing consumers to pay for initial advice over time for regular contribution products. Offering this option may create transitional

liquidity problems for some advisers, but the FSA believes that the limited proportion of income that would be earned in this way, together with the long lead-in time to implementation of the new rules, mean this problem could be overcome.

- The FSA states that it has seen no real evidence that banning factoring would impact regular savings products or that factoring, whether in the form of indemnity commission or otherwise, encourages savings in the current market (PS10/6, pp.33/34).
- d) Separating product and adviser charges: greater than 100% allocation rates**
- The new rules seek to prevent product providers from structuring their charges in a way that could mislead or conceal from the customer the distinction between product charges and adviser charges. In addition this would also end the use of greater than 100% allocation rates, whereby customers are offered an addition to their investment but it may not be apparent that this comes at a price – for example, higher charges. Most respondents agreed that this practice should be banned.
 - It was felt that an offer to invest more than 100% of a client's investment is likely to be confusing for consumers. It could also be used to disguise the true level of charges or give the impression that there are no charges (PS10/6, p.34).
- e) Separating product and adviser charges: ending product charge rebates**
- The FSA have decided to consult separately on the question of whether product charge rebates paid to the end customer should be banned. To aid clarity, the rules in this area would be enhanced to make clearer that product providers must not defer, discount or rebate their product charges in such a way that these charges could appear to offset any adviser charges that are payable. The intention remains to bring to an end the practice of levying higher charges and then rebating a portion of these to the consumer.
 - The FSA will be consulting on this later this year as part of the platforms consultation PS10/6, p.35).

Adviser Charging for Vertically Integrated Firms

The FSA has **gone ahead with final rules that require the separation of product and advice charges by vertically integrated firms**. They have made minor changes to the handbook text since CP09/18, reflecting in particular the fact that the allocation of costs and profit between adviser charges and product charges should be such that any cross-subsidisation is not significant in the long term.

Tax Implications of Adviser Charging

Firms will have to make decisions on exactly how they plan to change their contracts and systems in preparation for the new rules coming into force at the end of 2012, and these changes will have tax implications (PS10/6, p.36).

- **Value Added Tax:** The FSA confirmed in CP09/18 that whether adviser charges are subject to VAT is not determined by who sets the charges or whether the payment is by fee or commission, but by the nature of the service provided.
- **Adviser Charging as an Expense:** the new rules will trigger a shift from commission payments (currently an expense of the product provider) to adviser charges (an expense of the end consumer). While this does not change tax law, it does change the position of much of the industry in relation to existing tax law.

Disclosure Requirements for Adviser Charging

The FSA have **gone ahead with making rules on disclosing charging structures and total adviser charges**. An adviser firm must disclose its charging structure to a client in

writing, in good time before providing advice or related services (i.e. a requirement to create and use some form of price tariff at the outset).

- They have also gone ahead with the consulted guidance on how firms could comply with the requirements on the disclosure of total adviser charges
- These requirements were designed to encourage adviser firms to provide clarity to consumers regarding adviser charges, and to encourage consistency in the use of charging structures.
- The FSA also set a number of more detailed requirements for the disclosure of total adviser charges, in particular that these must be in cash terms (with non-cash terms to be converted into illustrative cash equivalents).

Inducements

The FSA have **gone ahead with proposals to widen the application of the ‘enhancement’ test**, so that it will in future apply generally to business involving retail investment products (not just to business caught by MiFID).

- In response to concerns expressed about guidance on benefits on which an adviser firm will need to rely, the FSA have modified the text to make clear that it addresses benefits on which the firm will have to rely for a period of time (for example, in cases where having continuing access to another firm’s systems or software would be the only way the firm could view its customer data in the future).
- The regulator has not introduced a ban on the use of electronic tools provided by third parties, which can be used if they do not conflict with the firm’s duty to act in the best interests of the client and otherwise comply with the rule on inducements (PS10/6, pp.40-41).

The new Handbook text on Adviser Charging and inducements (in addition to the requirements on independent and restricted advice) apply, generally, in relation to all retail investment products and so do not use the term ‘packaged products’

Simplified Advice

In CP 09/18 the FSA confirmed that Simplified Advice could be provided within the existing advice rules, but asked whether it should consider creating a new regime for such processes. This was rejected by the majority of those who responded, with them saying that it would be unnecessary and confusing. Therefore in their Policy Statement, **the FSA have announced that they will not be creating a new regulatory regime for Simplified Advice** (PS10/6, pp.19-20)

Given that many firms are at the early stages of developing their own Simplified Advice propositions, the FSA believes it would be unwise to develop definitive guidance on how such processes would be regulated. The FSA acknowledges that greater certainty about the design of the process and the product suite would be needed first.

The Policy Statement highlights the lack of consensus across the industry, or even within industry sectors, on what Simplified Advice should be aimed at, or the target market and the product suite. This has made it difficult for the regulator to develop guidance. There has yet to be a fully developed proposition and the FSA is continuing to challenge firms to lead design of the process and to come forward with developed propositions (PS10/6, pp.20-21).

Any complaints relating to Simplified Advice would be dealt with by the Financial Ombudsman Service (FOS). The FSA reports that some respondents asked for reassurances about how the FOS would adjudicate such complaints. In response it says that it cannot, and would not want to offer any reassurances. Instead it says that in developing any new advice process, firms should be mindful that they will only reduce their potential liability by ensuring they deliver suitable advice.

Professional Standards for Simplified Advice

The FSA continues to **resist calls from some quarters to have a lower qualification standard for Simplified Advice**, arguing that it would undermine its aim to increase the professionalism of the sector. It could also be confusing for consumers. The regulator has acknowledged that there could be an argument in terms of proportionality and content of the full standards but is awaiting proposals from the industry that would work in practice. The FSA makes it clear that they are open to suggestions on this particular issue (PS10/6, pp.21-22).

Platforms

Parallel to the Feedback Statement setting out what the FSA is *definitely doing* in delivering the RDR, the regulator also prepared Discussion Paper 10/2 on Platforms and other issues, outlining what it is *considering doing* at a later stage in that area.

Platform Remuneration

The FSA says that it wants to ensure platform remuneration does not undermine the RDR objectives regarding ending product and provider bias. They also wish to ensure that platform remuneration does not restrict choice or influence the prominence of different products on a platform. Customers should also know

- the amount they pay for platform services and
- be easily able to compare the costs and services of different platforms.

Their analysis suggests that fund supermarkets continue to dominate the platforms market and generally administer few non-commission generating products. The income such fund supermarkets receive from fund managers is typically represented as 0.25% of the value of the assets the platform delivers, but this varies significantly and fund managers may pay minimum fees. They also find that:

- Administration services that platforms provide reduce the overall cost and administrative burden for fund managers operating regulated collective investment schemes
- There is a widespread practice of rebates in the platforms market, according to an observation by the Financial Services Consumer Panel.
- The bundled charges platform remuneration may hamper potential growth of market share of other products which do not or cannot pay fund supermarkets.
- Fund supermarkets who charge minimum fees may price smaller fund managers out of the largest part of the platforms market

The FSA is considering whether additional requirements should be placed on platforms that facilitate payment of adviser charges. They “remain open minded to firms using a range of other mechanisms to facilitate the collection of adviser charges, and will work with any firms that feel they face regulatory barriers to developing practical solutions in this area” (DP10/2 Platforms, p.10-11).

That said, the regulator is considering stopping all payments from product providers to platforms, though they stress that this is not their final view and will be influenced by a cost-benefit analysis and MiFID issues (DP10/2 Platforms, pp.11/12). Their other options for platform remuneration included providing rules and guidance on unacceptable practices. They believe that such an action may also remove the risk of payments influencing the choice of products on the platform or how investment planning tools are constructed.

This may be combined with other measures such as further disclosure requirements to provide transparency, and even changing the nature of the product providers’ payments.

Adviser Charging

The FSA agree that platforms can offer a potential solution to Adviser Charging for product providers and adviser firms, but they want to ensure platforms administer Adviser Charging to the same standards as product providers. They believe it is important for customers to know (DP10/2 Platforms, p.13):

- How to stop the payment of ongoing fees from their cash account to an adviser firm
- How much they are paying to use a cash account
- How the platform cash account functions and how it is managed, including a clear disclosure of how fees will be paid in the absence of sufficient cash in the customer's account.

The FSA will consult in the summer on their data requirements for product sales.

Monetary and Non-Monetary Inducements

Respondents to the earlier consultation felt there was a danger of inducements blocking platforms from giving adviser firms assistance.

The FSA do not wish to see platforms providing monetary or non-monetary benefits that result in unnecessary switching of assets onto or between platforms. Neither do they want to see platforms becoming a channel for commission or commission-like payments from product providers, especially as many of them are owned or part-owned by providers (DP10/2 Platforms, p.14).

When platforms provide services to adviser firms, the FSA point out that they should ensure that they provide clear, fair and not misleading description of services. Platforms must manage and conflicts of interest appropriately concerning investment planning tools.

If adviser firms hold shares in a platform provider, "this should be disclosed and managed to ensure an adviser firm acts in its customer's best interests." (DP10/2, p.15)

Pure Protection

Also parallel with the RDR and platforms papers is a consultation paper on pure protection insurance. Firms that give both investment advice and provide advised and non-advised services for pure protection may adopt fee or commission-based remuneration models. There is currently no requirement in ICOBS for firms selling pure protection to consumers to explain how they are remunerated or disclose the amount of commission they receive for selling pure protection products.

However, the FSA believes there may be a case for requiring increased transparency about remuneration where pure protection services are provided to a consumer who will receive investment advice from the firm or who has received investment advice in the previous 12 months. They are consulting on the following key areas:

a) Commission Disclosure

- the FSA proposes that, "before services are provided, firms must explain how they will be remunerated for pure protection services and if they will receive any commission from the provider in the event that a pure protection policy is purchased.
- the actual amount of commission should be disclosed at the earliest practicable opportunity, so that the customer can understand the cost of the overall service, including the services covered by the adviser charge" (CP10/8 Pure Protection, p.7).

b) Explanation of Remuneration

- the draft rules require firms to take reasonable steps to ensure that the customer understands how firms are remunerated for pure protection sales associated with investment advice.

- they further clarify that if the firm gives information about the adviser charge as part of an oral discussion, they must also give the information about pure protection remuneration orally.
- c) Pure protection sales and advice ‘associated’ with investment advice**
- the draft rules require advisers to explain remuneration and disclose commission where pure protection services are ‘associated’ with investment advice.
 - Their proposed guidance explains that ‘associated’ means circumstances where the firm is likely to agree an adviser charge for investment advice with the customer or if it has done so in the previous 12 months.

This would exclude, for example, circumstances where firms are arranging a mortgage and also arranging a term assurance sale for the customer, where the firm has not agreed an adviser charge for investment advice within the previous 12 months.

Professionalism Update

In March 2010, the FSA closed its consultation CP09/31 that explored the professionalism aspects of the RDR implementation.¹

- In an effort to embed professionalism into the retail investment advice sector, the FSA propose making membership of a professional body a “safe harbour” for advisers needing to comply with revised Handbook requirements.
- To deliver professional body governance, the FSA has opted for “an internal FSA model,” rather than the CII’s proposal for an Independent Professional Standards Board.²
- The FSA sketches out how it would oversee professional bodies to ensure they meet a consistent framework (with appropriate standards for qualifications, ethics and CPD delivery).
- The FSA takes forward its work to raise the benchmark qualification for investment advisers. It clarifies some earlier confusion about the qualification size and level, and details the FSA’s “no-regrets” policy for existing advisers.
- The option of alternative assessments is also being developed, with other methodologies beyond oral assessment considered, provided they strict criteria.

The CII [responded to this consultation](#) by the deadline. Our general view was that:

- We believe that this consultation outlines the central features of a **‘package of professionalism’** which we have espoused throughout the RDR process; namely higher standards of qualification, the introduction of a mandatory CPD underpinned by a code of ethics and a robust disciplinary system.
- The **criteria** which will guide the professional bodies need to be robust and stretching, and stand the test of public scrutiny in the same way as other professions.
- We disagree with the FSA’s rationale for an **internal model for professional standards governance**. This approach has been superseded in other professions.
- We support the proposals for enhancing the FSA register and introducing practising certificates.
- **Alternative assessments:** we support these provided they are robust, independent, and have no shortcuts or exemptions to command public confidence.

¹ FSA CP09/31, 16 Dec 2009 http://www.fsa.gov.uk/pages/Library/Policy/CP/2009/09_31.shtm

² See *Building trust through independent standards: Our view on an Independent Professional Standards Board*, CII Paper in Professionalism 6, 7 Dec 2009 http://www.cii.co.uk/downloaddata/PP6_IPSB_7Dec2009.pdf

- **Gap-Fill 'CPD':** we had some concerns with the model proposed in the consultation, and have some suggestions for improvement.
- **Defining Existing Advisers:** we believe there needs to be further clarity in this area, especially with respect to details such as the currency of legacy qualifications.

RDR Timetable

The final rules presented in PS10/6 will come into effect at the end of 2012. Meanwhile the FSA will also be taking forward its consultation and subsequent amendments to the Handbook on platforms and pure protection.

Detailed Activity	Date
DP10/2 <i>Platforms</i> , discussion period closes	26 May
CP10/8 <i>Pure Protection Sales by Retail Investment Firms</i> consultation closes	28 Jun
Feedback statement on proposals in CP09/31 <i>Professional Standards</i> on governance proposals and implementing CPD and ethical standards	June
Consultation on draft professional standards	June
Policy statement on professional standards governance, ethics and CPD	Q3
Consultation on labelling of platforms adviser services (TBC)	Q3
Policy Statement and final rules implementing consultancy charging in the corporate pensions market	Q3
Policy Statement with final rules for pure protection sales by retail investment firms	Sept
Consultation on changes to transactional sales reporting	Q3
Consultation Paper on Platforms	Q3
Policy Statement on Platforms	Q4
Prudential Rules for Personal Investment Firms (PIFs) subject to new prudential rules from 31 Dec 2011 on a transitional basis	End 2011
FSA will carry out thematic work and monitoring on professionalism. Advisers who do not possess a qualification on the transitional list need to qualify at the new level. Advisers who do possess a qualification on the transitional list need to complete any additional CPD top up. FSA will carry out thematic work and monitoring on remuneration. All advisers and product providers must prepare and be ready to operate Adviser Charging and meet the associated requirements from Jan 2013. FSA will carry out thematic work and monitoring on description of services. All advisers must prepare to describe their services as independent advice or restricted advice from Jan 2013. All advisers must prepare and start complying with the new independence and product requirements from Jan 2013.	End 2012
PIFs must comply fully with the new prudential rules from 31 Dec 2013.	End 2013