

FSA Consultation Paper 09/31 Delivering the Retail Distribution Review: Professionalism; Corporate pensions; and Applicability of RDR proposals to pure protection advice



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1. Introduction and Executive Summary

AEGON supports the FSA's aims behind the Retail Distribution Review (RDR) and the majority of the proposals to give effect to these aims. We provide our responses to the specific Consultation Paper questions in Section 2. Here we give an overview of our key points.

Professionalism

On professionalism, it is important that the FSA sets clear and unambiguous standards to ensure the actual delivery of the RDR's aims. Any ability to circumvent the requirements could jeopardise trust in the outcome of the entire Review. To avoid this risk, the following will be required.

- Recognition criteria for professional bodies must be sufficiently robust.
- The required standards must be properly policed.
- The FSA must not allow dilution of its QCF level 4 Diploma qualification standard, including through the 'legacy list'.

In general, we would prefer the Professional Standards Board to be independent of the FSA, and hope this is the long-term outcome. But we understand the FSA's pragmatic choice in favour of the internal option.

With regard to qualifications we propose:

- QCF level 3 Certificate is the most likely right qualification level for individuals facilitating simplified advice processes.
- The Regulation & Ethics unit should be set at level 3 so it can work interchangeably for investment and protection advisers.
- The professionalism and qualification agenda should be extended to corporate pensions through a bespoke, relevant suite of qualifications / modules for that market.
- Further consultation should be undertaken on qualifications for protection advisers.

Corporate Pensions

Within the corporate pensions market, we again support many of the proposals. However, we believe there are flaws in the FSA's analysis and much more work to do in some areas. In particular, we believe the conclusions reached around commission bias are incorrect.

Our key concerns are:

- The FSA has confused provider bias (where the adviser can be influenced by different remuneration offered by different providers) with sales bias (where the adviser has an incentive to switch scheme rather than retain an existing scheme).

- We agree sales bias exists but dispute the existence of provider bias in this market, particularly in any detrimental form. The ban on provider factoring is designed to address the latter and is, therefore, misdirected and unhelpful. A factoring ban will not help resolve the former, which is the actual area where there is scope for improvement through regulatory intervention.
- Inadequate recognition is given to the sharp segmentation between employers who are willing to pay advisers fees in addition to pension contributions, and those who are not.
- The success of the proposals places too much reliance on employers' willingness to pay separate fees for pensions advice, and / or advisers' willingness to defer payment for initial work done.
- Not enough emphasis is placed on the benefit to individuals of employer contributions.
- There is a logical inconsistency between product price caps and Consultancy Charging.

We have previously highlighted to the FSA our concerns over banning provider factoring in the corporate pensions market, with the likely consequence of removing access to advice and indeed to savings for a significant number of modest earners. This major cost has not been given proper consideration, and alongside our challenge regarding the inappropriateness of tackling sales, as opposed to provider, commission bias in this way, puts in question the whole validity of Consultancy Charging without provider factoring in this key market.

At the very least, banning provider factoring is a high-risk strategy. The FSA might be right that employers will move to pay separate fees and / or advisers will be prepared to spread remuneration for initial services, but equally, this may prove wrong. It must be accepted that this represents a significant risk, especially in the context of the Government's pension reforms. There are real risks to individuals, employers, providers and to Government aims:

- Employers may be unwilling or unable to access advice in a way they are prepared to pay for it and 'disengage' from anything more than their minimum legal obligations.
- Individuals, as a result, may not be given access to good quality private pension provision and the adviser support that often goes alongside this. Instead, they may be offered lower employer contributions (either in private sector pensions or NEST).
- Providers may see many existing good quality schemes discontinued, reducing the benefits to all stakeholders of a thriving private sector pensions market running alongside NEST.
- As a result of the above, Government aims of having more people save more adequately for retirement will be put in jeopardy.

We remain concerned that the FSA seem to be placing too little emphasis on managing these risks.

AEGON believes there is much work still to do on the design and execution of Consultancy Charging, ensuring transparency, and fairness between scheme members. Our key design principle is to think separately about costs associated with the scheme and costs associated with individual services to members. But there is a wealth of detail to work through which we believe will require structured practitioner input to the FSA. Finally, we think FSA's proposal to allow commission to continue on pension schemes in place before 2013 is key to avoiding a disorderly market either side of the 'cut off' and vital to supporting stability and confidence among employers as they grapple with the challenges of the Government's auto-enrolment reforms.

2. Responses to Consultation Questions

Professionalism

Q1 Do you agree, for the reasons outlined above, that the internal model is the least costly and the least complex to establish and will achieve broadly the same outcome as an external PSB?

We have always been strong advocates of an independent PSB. We believe that the profession should be independently assessed by a body other than the FSA, as this is likely to lead to greater consumer confidence and trust. This is because the profession itself needs to be seen as championing the rights of the consumer, rather than being compelled to do so by the industry regulator.

We also do not believe that the internal model would be any cheaper to deliver. Whoever provides the oversight will need the same level of resources, skilled staff, etc. The ABI has provided some information on the Legal Services Board, which is a good example of a cost effective independent overseer.

We note, however, with some disappointment, that not all of the professional bodies, nor all sectors of the market, have supported the idea of an independent PSB. In the circumstances, we believe that the FSA has taken the only pragmatic course of action open to it. The end-2012 deadline is a demanding target and the PSB needs to be established without delay if the necessary guidance and oversight is to be given.

If the decision is taken to proceed with an internal model, we would urge the FSA to consider this as only a temporary step towards a fully independent model and we would suggest this decision be reviewed in, say, 2017.

Q2 Are there any additional criteria that should be included for the initial and ongoing recognition of professional bodies?

We are already hearing suggestions that commercial bodies could undertake the responsibilities of a professional body. In our view, such statements demonstrate a lack of understanding. Consumers are likely to have less trust or confidence in bodies that are commercially driven. AEGON believes that all Recognised Professional Bodies (RPBs) should meet the following criteria:

- Financially robust
- Not for profit
- A strong governance that places the consumer at the heart of the organisation
- No commercial ties or conflicts of interest
- Skilled staff

- Strong processes and procedures
- Adequate resources
- A willingness to enforce

We agree with the ABI that some of the current professional bodies are not 'geared up' to enforce an ethical code, or even robust CPD. The PSB must ensure that these vital areas of operation are rigorously policed.

The proposals rightly demand that RPBs are financially sound. We agree with this, and would suggest that not all 'possible' professional bodies may be able to meet normal due diligence assessment. We believe that the FSA / PSB need to be very explicit in their requirements. It will do no one any good to see an RPB fail financially or have to cut monitoring or disciplinary processes to safeguard income.

Unless membership of an RPB is compulsory, it is likely that the FSA will find itself in the position of acting as RPB of 'last resort'. We would expect the FSA to be no less rigorous in its policing of those individuals who do not join a professional body, and that the regulatory fees paid by such advisers would reflect the additional monitoring and work undertaken by the FSA.

We very much agree with the ABI suggestions in this area including the need to have joint monitoring of individuals to prevent a rogue adviser simply switching between RPBs. We also support random sampling of CPD records and evidence that advisers are meeting the code of ethics.

Q3 Do you agree that the arrangements described will deliver the required increase in the quality and consistency of professional standards across investment advice sectors?

We agree the arrangements will deliver this, provided they are properly policed and the concerns that we have raised are adequately addressed.

Q4 Do you agree that updating the FSA Register with further information about advisers' qualifications, and introducing practising certificates for advisers, will contribute to the restoration of consumer trust and confidence?

Yes. However, the register will only succeed if consumers are aware of its existence and significance. This will require a substantial consumer education programme to be implemented, to explain to consumers all relevant aspects of the RDR and how facilities such as the register can be used. We also agree that the register should include details of the adviser's relevant qualifications and membership of professional bodies.

Relevant qualifications could include University degrees that are financial services or business orientated. Thus, an LLB Law degree or a degree in Business Studies would be acceptable, whilst a BA in Music would not.

The register should also provide access to independent descriptions of the qualifications and links to the professional bodies quoted. This register may be restricted to include only *Recognised* PBs. Otherwise, the different status of Recognised and other PBs would need explaining.

Finally, we agree that it is vital that consumers are provided with a clear complaints procedure.

Q5 Do you think the arrangements described will support the aim of beginning to improve the reputation of retail investment advice?

AEGON fully supports the FSA's proposals for increased professional standards. However, we remain highly concerned that some awarding bodies have been allowed, by the FSA and FSSC, to introduce and market qualifications that fall below the new QCF Level 4 Diploma benchmark. We believe this seriously undermines the credibility of the changes and would further damage trust if consumers were to appreciate what is happening.

It is vital that the FSA and PSB rigorously police the level and standards of both the RPB and the qualifications that are introduced. It is simply not sufficient to say they are "Ofqual compliant" as Ofqual and other qualification and awarding body regulators are not sufficiently familiar with our market.

We strongly urge the FSA and PSB (in conjunction with the Financial Services Skills Council (FSSC) or a similar body) to establish a group of senior practitioners who are familiar with the educational environment and who can advise the PSB on the standards. Such individuals should not be employed by any of the aforementioned bodies or hold office or employment with any of the professional bodies that are being overseen.

We very much oppose any presumption that those offering / facilitating a simplified advice process (SAP) will need to hold a level 4 qualification. We first need to undertake an analysis of the actual learning needs required to fulfil the SAP role. Based on the SAP proposals that we are aware of, and our understanding of the QCF descriptors, we believe that a Level 3 Certificate is likely to be more appropriate. We have already shared our views on this with the FSA and we hope that these will be taken into account.

We also have concerns about some of the qualifications that are included in the 'legacy list'. At least two of the qualifications are at Level 3 and therefore fail the equivalence test. We have separately provided the FSA with details of our concerns.

We also question the need for the Regulation & Ethics unit of the new ApEx standard to be at Level 4. Whilst we fully support the move to a QCF Level 4 Diploma, we would prefer to see the Regulation & Ethics unit set at Level 3 as part of the Level 4 Diploma. The Protection unit of the Level 4 Diploma is already at this lower level. Our reasons for suggesting this are, firstly, the area of Regulation & Ethics is largely one of factual knowledge and not analytical skills and competencies, hence not requiring Level 4 assessment. Secondly, if the Regulation & Ethics unit is set at level 3, it could also be used as a core paper for

ICOB protection advisers and those offering simplified advice. The alternative would be to require ICOB and SAP advisers to hold a Level 4 unit (Regulation & Ethics). Either option would give a welcome degree of portability within the new qualification framework. We have already made this suggestion in our response to the FSSC's ApEx standards consultation. A copy of our FSSC response is attached in Appendix 1.

Finally, we continue to support the long-term goal of raising the benchmark to Level 6. However, we feel that this should only be introduced once the RDR has bedded down and, importantly, we can evidence that there is a viable route of access for the mass market – possibly through SAPs. Any further increase in minimum requirements should only apply to new entrants.

Q6 Can you provide evidence of any other qualifications meeting all three of the stated criteria?

We cannot provide any such evidence.

Q7 Do you agree that option iv is the most pragmatic solution and do you agree that these proposals will provide advisers with transferable evidence of their qualifications?

Whilst we accept that this is a pragmatic solution, we believe it is too vague – especially as we have already seen some awarding bodies and professional bodies introducing 'smaller' qualifications. For example three professional bodies are each marketing a 'Diploma' that is stated to meet the 'no regrets' requirements. The CII's Diploma is in the QCF at level 4. It requires 400 hours of learning. The ifs School of Finance Diploma is in the NQF at Level 4. It requires 310 hours of learning. Finally, the CIOBS Diploma is in the SCQF at Level 9 but only requires between 120 and 150 hours of learning.

Whilst all three Diplomas are at the right level, the content of each is different and clearly a Diploma requiring only 120 hours of learning does not equate to one requiring 400 hours. Despite the FSA now having stated that the new Diploma will require a minimum of 370 hours of study, it is evident that some advisers will be able to largely circumvent the 'step change' that the RDR was intending to deliver. This is a bad outcome for the industry and the consumer. To ensure that a similar fate doesn't apply to the structured CPD requirements, the awarding bodies should provide more detailed guidance as per option (iii). It is important that the FSA, FSSC and PSB closely monitor and control the activities of the awarding bodies and RPBs in this area.

Corporate pensions

Q8 Do you have any comments on our analysis of the current GPP market?

AEGON has provided the FSA with extensive information regarding the GPP market, both in formal submissions and through other ad hoc engagements. Throughout, we have highlighted that this market is different in nature from the individual retail market. It has its own strengths, but we have also openly admitted to areas where regulatory interventions could lead to improvements.

One of its key strengths is its effectiveness in providing millions of employees with ready access to tax-efficient savings for retirement, with the very valuable added bonus of an employer contribution. One of the problems identified with the individual retail market was that many individuals cannot access 'advice' and therefore do not access financial services products from which they would benefit. This is not the case in the corporate pensions market. We must not understate the huge benefit GPPs provide – by giving millions of savers access to a valuable savings vehicle.

As the FSA highlighted in CP09/18, the existence of an employer contribution is very influential in terms of determining suitability. This needs to be kept firmly in mind when considering the application of the RDR to corporate pensions.

AEGON has significant concerns over the validity of the FSA's analysis of the existence of commission bias in this market. We believe the analysis is flawed and confuses two forms of 'bias':

- 'provider bias' - bias caused by providers competing for adviser business by offering different levels or shapes of commission, and
- 'sales' bias – the bias which leads an adviser to set up a new scheme rather than to continue with an existing one.

AEGON accepts that the latter exists and we are hopeful that the RDR can partially address this. But we do not agree that the former exists in the way the FSA articulates it for the individual market. In particular, we do not believe it results in customer detriment.

The proposal to ban provider factoring is aimed at addressing provider bias. It does nothing to address sales bias.

Sales bias

We agree that one of the areas for improvement in this market relates to persistency as at times, schemes are re-brokered more frequently than is necessary. This often occurs when a new adviser is appointed. Unless an employer is prepared to pay the new adviser a fee, the only way the new adviser can be remunerated is by switching the scheme to another provider to generate more initial commission. We welcome the increased transparency Consultancy Charging (CC) will introduce around adviser remuneration. We believe this will

improve employer engagement and understanding and make employers less prepared to accept recommendations to make unnecessary switches.

Importantly, we also assume (through extension from the Adviser Charging rules) that there will be the ability within CC for the employer and adviser to agree on a 'new' CC to be deducted from the scheme where this is required to cover new advice or services. We believe this will further reduce the frequency of unnecessary switching.

There are other steps the FSA could take to further reduce the drivers behind sales bias / unnecessary switching. For example, within a GPP, the employer does not have the ability to switch current member funds into a new default fund (whether determined by the employer / adviser or suggested by the provider). Instead, each member must give individual consent. However, if the scheme is rewritten, the new default fund can be applied for both future contributions and proposed for any transfers across. We believe employers could usefully be given greater powers to make such scheme-wide decisions. This would be consistent with powers trustees have within occupational schemes and we would urge FSA to consult with DWP.

Provider bias

The FSA claims that as GPP new business is concentrated amongst a handful of providers that pay initial commission, this indicates 'commission bias exists'. In view of the measures the FSA proposes to address this, we conclude this refers to provider bias. We strongly disagree with this conclusion and believe it is based on flawed logic.

We accept that those providers who continue to pay initial commission on GPPs receive a larger share of this market than those who don't. But this is not, in our view, provider bias. The form of provider bias which should rightly concern the FSA is where the customer suffers because the adviser is encouraged to select a product or provider that leads to the adviser being remunerated more and the customer being worse off. This is not the situation here.

Advisers can be remunerated for advising on GPPs either on a fee or commission basis. This leads to a number of scenarios.

Some advisers will only operate on a fee basis. This restricts the number of employer clients they can serve. Many employers are not prepared to pay on a fee basis and so cannot access advice through such advisers meaning they will not be able to find assistance should they wish to offer pension provision to their workforce.

Other advisers offer a choice of remuneration methods. If the employer decides to pay on a fee basis, the adviser can select from those providers who offer GPPs on 'clean terms' which will include those offering the option of initial commission and those who don't. But if the employer is not prepared to pay a separate fee, then at present, commission is the only option and the adviser must select from those providers who will facilitate this. This is the main driver that means if a provider stops paying initial commission it will see its market share fall – because

it is effectively restricting the target audience of employers to those prepared to pay fees. This target market concept is fully embedded within Treating Customers Fairly principles and we do not see why offering products tailored to specific target markets should be criticised here by the FSA.

AEGON believes that the number of employers prepared to pay a separate fee is reducing. One indicator of this is the growing trend amongst Employee Benefit Consultancies, who have historically been regarded as 'fee only', offering a commission alternative to their clients.

Those providers who continue to offer initial commission operate bespoke pricing for GPPs. There is no standard level of charges and no set commission rate. The charges the provider will offer will vary with the nature of the scheme including:

- the likely size of scheme membership
- the average contribution level
- the anticipated persistency, which is in turn a function of the employment sector the employer operates within
- any previous pension entitlements being transferred into the new scheme
- special administrative requirements / e-processing / adviser involvement in scheme administration

The adviser will ask providers to build in the shape / level of commission they wish to receive. This in turn should rightly reflect the services provided both to the employer and where applicable to members. This is very similar to how CC will work, albeit there is no current requirement to agree (or disclose) the total amount of remuneration with the employer.

We do not see this approach as representing provider bias or as being detrimental to customers.

We do accept that competition would increase if more providers were prepared to offer a solution to those employers not prepared to pay a separate fee. The proposal to ban provider factoring is, therefore, doubly inappropriate. Not only is it misdirected, failing to address the form of (sales) bias we accept exists, but more importantly, allowing a limited form of factoring over a maximum period of 5 years, say, might actually encourage some additional providers to offer the facility to pay advisers out of scheme charges – and hence address the needs of a wider group of employers.

We expand on our thoughts on provider factoring in our answer to Question 9.

Sustainability of the current commission-based model

The FSA also states that it believes the current commission-based model is not sustainable. We accept that the **levels** of commission paid on schemes set up in the past are unsustainable – particularly because of the trend towards mono charge schemes. But it is not the commission model itself which is not sustainable – it is some of the shapes and levels, and the resulting lengths of time taken to recoup payments made to advisers, which are not sustainable.

Active member discounts

The FSA makes reference to active member discount (amd) charging structures. This is an annual management charge shape with two different levels of charge. One is for active members, who receive a discount from the normal scheme annual management charge that anticipates a build-up of funds through future contributions as well as through investment growth, while the non-discounted charge is applied to paid-up members, as on leaving, any discount is usually removed. This is communicated to scheme members on joining.

The benefits of the amd structure offered by AEGON include:

- Anticipated improved persistency, both at scheme level and at individual member level
- Better outcomes for members through application of a lower charge for active members
- Retention of the lower amc whether or not contributing, after a minimum period of active membership
- Flexibility to retain the discount during contribution holidays and on leaving the scheme and
- A reduction in the cross-subsidy between active members and paid-up members, and those with different fund sizes.

In addition, it should be noted that the terms offered are often better than could be obtained on an individual basis.

Qualification requirements for corporate pension advisers

As mentioned in our introduction, we support extending the focus on professionalism and qualifications to those operating in the corporate pensions market. However, we are concerned that under current FSA proposals, such advisers may need to complete a qualification that is too weighted towards areas that are of little significance to their area of operation.

Currently, such advisers can take the CII Diploma and largely complete the pension papers (in the knowledge that they will have a significant knowledge gap to fill, through structured CPD, when it is compared to the new ApEx based Diploma). However, even this flexibility will be lost to new entrants when the new ApEx Level 4 Diplomas are introduced. Even more bizarrely, it would appear that a corporate pension adviser dealing with GPPs (which are FSA regulated) will

need a QCF Level 4 Diploma, yet a corporate pension adviser who only deals with trust based occupational schemes may be subject to a lower qualifications requirement. Clarification from the FSA on this issue, ideally after discussion with the Pensions Regulator, would be welcome.

Finally we are aware that the PMI and CII have recently collaborated to provide pension specialists with a wider range of units that can count towards the CII's Diploma. We would suggest that this Diploma would be suitable for corporate pension advisers, with worksite enrollers having to hold either the full Level 3 ApEx or, as a minimum, the Regulation & Ethics and Pension units from the Level 3 ApEx.

Q9 Do you agree with our proposals for applying the principles of adviser charging to the GPP market? If not, please say why.

AEGON agrees with the proposals to introduce Consultancy Charging (CC) for new GPP schemes set up after the RDR comes into effect. We support the CC being agreed with the employer.

We very much agree that providers should be permitted to facilitate the deduction of CC from members' policies within the scheme. This is a vital component. While some employers are prepared to pay an adviser for services related to the scheme by separate fee, many are not. There is learning to be taken from employer (particularly SME) reaction to the introduction of stakeholder pensions where of those who were prepared to take / pay for advice, few did so on a fee basis. We believe the number not prepared to pay separate fees (not just for pensions advice but for other professional services) is rising as a result of current economic conditions. We also agree it should be for the adviser and employer to decide if the CC should come out of employer contributions and / or employee contributions and funds.

For situations where the employer and adviser agree that a personalised service will be offered to potential members, we also very much welcome the provision which will allow the employer and adviser to agree a standard tariff within the CC which will be levied on those members who accept the offer of this service. We suspect the draft rules mean this tariff can only be applied where the potential member actually joins, meaning the adviser may bear the cost of providing a service to non-joiners without charge. The advent of auto-enrolment may require the precise workings of this provision to be re-examined.

Our interpretation of the draft rules describing when CC will apply suggests that the FSA is extending the scope of its regulation of services in connection with 'advice' to employers on group pensions. We have no concerns over this but believe it will be important to clarify this change to advisers active in this market. In particular, there are some employee benefit consultancies who are currently outside the scope of FSA regulation who will find themselves in scope if they continue with current activities.

Linked to the above point, there are some firms who will provide services to the employer only and offer no advice or service at member level. Here, the scheme is often set up as a direct offer from the provider to members. This means there

is no relationship between the adviser and scheme members. The provider accepts all compliance responsibilities associated with the direct offer. We would welcome clarification regarding how this scenario will be impacted by the RDR. Does the impact depend on whether the CC is paid by policy deduction or as a separate fee from the employer? Even if paid by separate fee from the employer, does the extended scope of FSA regulation on engagement at employer level (as per the circumstances when CC applies) have a bearing? And are there implications for minimum qualifications?

We would also welcome confirmation that CC will apply where transfer values are being arranged from a previous scheme on a direct offer basis. We interpret this as falling within the scope of activities which trigger CC but as this is an important element of the market, it is vital that FSA provides full clarity. We would point out that such transfers are beneficial for a number of reasons – they reduce fragmentation of pension provision, creating cost efficiencies for both providers and customers, and also improve the effectiveness of communications to members.

We warmly welcome the confirmation that the FSA does not intend to require any change to remuneration arrangements already agreed within pre RDR GPPs. Any attempt to require a move to CC for increments to existing contributions or for new entrants would have been extremely difficult to administer. The systems costs of implementing would have been extremely high, and indeed we suspect the only pragmatic approach would have been to stop paying any adviser remuneration on increments and new entrants. It would also have been difficult for both employers and employees to understand.

By allowing commission to continue in such circumstances, the FSA is also removing what would have been a potentially major driver for advisers to switch existing schemes onto a new single basis after 2012, justified on the grounds of creating a single scheme wide approach.

In addition, allowing commission facilities to continue on pre-RDR schemes avoids a significant drop-off in corporate pensions activity in the run-up to 2013 – which of course is a period which overlaps with the beginning of the phased introduction of the new employer responsibilities under pensions reform. Providers would find it very difficult to profitably set up schemes now if there was a real risk (exaggerated by a commission disconnect) that these would be rewritten post 2012.

We expand on this topic in Appendix 2.

Extension to occupational Defined Contribution schemes

We also support the intention to extend the concept of CC to occupational Defined Contribution schemes (we assume the reference to Defined Benefit schemes in the draft rules is an error) by banning commission on investment products linked to such schemes. This is an important measure to avoid creating an additional driver towards regulatory arbitrage that is unlikely to benefit (and indeed could harm) members. We would welcome clarification on adviser

remuneration where an annuity is purchased on behalf of an occupational DC scheme member.

There are other arbitrage issues. The most significant is the difference in preservation requirements which mean those leaving an occupational scheme within two years can be offered a refund of personal contributions, with employer contributions being returned to the employer. This presents employers with a potential cost-saving from early leavers, particularly if turnover of employees is high. The advent of auto-enrolment is likely to increase the frequency of early scheme exit (even if still in the same employment). Other differences include triviality rules and disclosure requirements. AEGON sees no justification for such differences and would welcome their removal.

The proposed ban on provider factoring

While we support the majority of the FSA proposals around CC, we have one major area of disagreement, which concerns the proposed ban on provider factoring and its extension to corporate pensions. CC without factoring is a high-risk strategy. Pure matching means if the adviser wants or indeed needs (because of capital and cashflow issues) to be paid upfront for initial advice and the employer won't pay a fee, then the full advice cost must be deducted upfront. This means we return to nil or at best heavily reduced initial allocation periods. We assume the FSA is not keen to encourage such a move which would offer particularly poor value to early leavers (see above comments regarding a likely increase in the number of early leavers post pension reforms).

In the November 2008 Feedback Statement, the FSA admitted factoring 'is most likely to be required by less affluent customers when purchasing a regular premium life assurance or pension product'. Since then, it has claimed there is very little regular premium savings anyway, implying that the downside of banning factoring will not be widespread. This ignores not only many self-employed pensions savers, but the vast number of employees who are members of GPPs (over 3 million based on 2008 data), and who as a result benefit from regular tax-efficient savings. The FSA has also suggested people typically have extra money saved to cover fees. We do not believe all employers would accept this. We also have serious doubts that employers would be prepared to borrow to cover the cost of being advised on setting up a pension scheme for their members – which will also benefit from employer contributions.

We understand that the key driver behind FSA determination to ban provider factoring is to eliminate any possibility of provider bias re-emerging. We have already explained why we believe concerns over this form of bias in the GPP market are misplaced and not connected to customer detriment. So not only is the factoring ban unnecessary for corporate pensions, it is also hugely risky, with the potential to damage the financial futures of millions of individuals who need encouraged to save more for retirement.

The CP states 'We do not accept our proposals will necessarily lead to a reduction in take-up'. It is possible that there will be no reduction in take-up, but AEGON thinks this is highly unlikely and certainly not universal. We believe it is possible if and only if one or more of the following conditions apply:

- Firstly, all employers are prepared to pay separate fees when receiving advice or services. While we agree some already are and others in future will be, we believe current economic conditions are reducing, not growing this number.
- Secondly, post 2012, all advisers advising employers who are not prepared to pay a fee will offer to accept payment for initial services over a number of years. Again, economic conditions and a scarcity of capital make this unlikely for all.
- Thirdly, no employee will be put off joining a scheme because the first few months' contributions are swallowed up in charges. Under automatic enrolment, some might not notice, but many more will. In any case, we do not believe the FSA should set policy on the basis that employees don't understand charges.

For these reasons, AEGON sees major risks in a provider factoring ban. The costs in terms of discouraging employers from offering good quality schemes (and defaulting to NEST or legislative contribution minima) and of discouraging employees from joining those which are set up are huge. On the other side, the benefits are not at all clear – particularly in light of the question-mark over any (detrimental) provider bias, coupled with the existence of an employer contribution which almost guarantees suitability.

AEGON continues to believe a form of standardised factoring offers the solution – and without the risks. We continue to support limited factoring over not more than 5 years, and would be comfortable with FSA or some other industry body setting parameters around the terms of that factoring. The FSA has claimed this would infringe competition law but has provided no evidence to back this up. We find this unacceptable, particularly in an area with such huge risk of consumer detriment.

We believe our solution would work for both advisers not willing to defer payment for initial advice and for employers not prepared to pay a separate fee. It is vital that such a solution exists in the post 2012 environment. In its absence, there are a number of major risks:

- Employers may be unwilling or unable to access advice in a way they are prepared to pay for it and 'disengage' from anything more than their minimum legal obligations.
- Individuals as a result may not be given access to good quality private pension provision and the guidance that often goes alongside this. Instead, they may be offered lower employer contributions (either in private sector pensions or NEST).
- Providers may see many existing good quality schemes discontinued reducing the benefits to all stakeholders of a thriving private sector pensions market running alongside NEST.
- As a result of the above, Government aims of having more people save more adequately for retirement will be put in jeopardy.

The potential impact on an individual's pension from an employer choosing NEST over a typical GPP can be very significant. Clearly, it depends on the contribution rates and definition of pensionable earnings within the GPP and the length of time to go till retirement. It also varies significantly with earnings – those on lower earnings will be particularly adversely impacted by a move to contributions being based on earnings with a 'lower threshold' offset (as proposed under the minimum contributions within pensions reforms). By way of illustration, an individual aged 30 earning £24,000 would see their pension at age 68 reduce by over 30% if moved from a GPP with 5%/5% employer/employee contributions on earnings compared to 8% of band earnings in NEST. For illustration, these figures allow for a lower charge in NEST than in the GPP (0.5% annual management charge against 0.75%).

Concerns have also been expressed around 'stagnation' in the GPP market post 2012 with an end to scheme switching. This is a rather counter-intuitive concern when one of the key benefits the FSA hopes to achieve from CC is a reduction in unnecessary switching. The argument is that advisers will not wish to recommend a switch of scheme / change of provider (even when this would benefit members) because this would mean remuneration had to change from commission to CC. Those who advance this argument are implicitly acknowledging that CC will be unacceptable within many employer / adviser relationships. We agree it will be unacceptable to many if factoring is banned. But if limited factoring is allowed, there is no reason it should be so unattractive as to discourage switching where this will be to the benefit of members. Allowing limited factoring post 2012 would also mitigate fears of a 'rush' to put in place schemes on a commission-paying basis before end 2012. Again, those expressing those fears are basing them on the assumption that the remuneration options post 2012 will be unacceptable.

AEGON does agree that it is very important that advice given pre-end 2012 is suitable including against a background of forthcoming pensions reforms and new employer responsibilities. We also agree that arrangements put in place must be sustainable well beyond 2012, and this includes the remuneration basis the adviser agrees with the employer – both for initial and ongoing advice. For the avoidance of any doubt, AEGON has no intention of offering terms to advisers in the run-up to 2013 that do not make commercial sense to us as a provider.

We once again urge the FSA to reconsider its stance on provider factoring, at least within the corporate pensions market. If, however, the FSA does implement the ban, we believe it will also need to consider how to avoid a return to nil allocation periods. There are a number of possible ways of doing this. One might be to restrict the percentage deduction from any member's contribution, requiring a degree of spreading of payment for initial advice. This would have to be FSA rather than provider led due to providers being unable to influence the level or shape of CC. This effectively amounts to FSA mandating CC by instalments. Another 'half way house' would be to treat as matched payments to an adviser which are paid within the same year as deductions from the product / scheme. This would allow the adviser to be paid on day one and for the charges to come out of the member's policy over the first year. There are a number of

subsidiary administrative benefits in this – pure matching will be complex in any circumstance where the CC exceeds the contribution paid on day one.

Specific CC considerations

There are a number of additional issues which need to be considered for CC over and above AC.

It is feasible that an ongoing CC could be agreed at scheme level and also at individual member level (for an agreed additional personalised service). We need to be clear on who can switch off which element.

There could also be circumstances where an individual receives fuller advice including around pension provision (i.e. beyond the service agreed with the employer within CC). This might be with the scheme adviser or with another adviser. We assume the rules would allow AC alongside CC – although in saying that, we suspect the systems complexities of offering this will be problematic.

Another scenario would be where an individual member leaves the employer and their policy becomes an individual pension. At this stage, does the employee take overall control of deciding if ongoing payments (redefined from CC to AC) are to be deducted?

It is also important to clarify the VAT status of CC agreed for personalised services to members. This is a function of whether such service is intermediation or advice. Our interpretation is that because it can only be deducted if the member accepts the service and then joins the scheme, it is the equivalent of 'conditional on purchase' and hence intermediation. Again, we would welcome clarification.

Basic advice on stakeholder pensions

We note the FSA is now considering requiring CC for group stakeholder even when members are enrolled using basic advice. There is a major disconnect between the concept of CC and price caps on the overall charges within a policy or scheme. The whole concept of AC and CC is that providers and advisers arrive at their charges completely separately. This means it is simply not feasible to apply a price cap to the overall charge.

We have heard it argued that advisers would be required to set their CC not higher than the difference between the price cap and the manufacturer's charge. But this is a clear example of provider bias. As different providers will charge different amounts, the adviser firm would effectively be varying what they charge depending on which provider they recommend.

We trust the FSA would not wish to create these bizarre situations. It would be a major new intervention by FSA in the pricing of advice – something we do not believe is the FSA's intention and which would require much more extensive cost benefit analysis if it were under consideration.

Where a price cap is in place, this provides a form of consumer protection. This means any protection needed from CC (or AC) is less – if required at all. If there is to be a role for price caps in a CC or AC environment, then these would need to apply only to the manufacturing charges.

Q10 Do you have any suggestions for the fairest way of allocating consultancy charges among different members of a GPP, allowing for different ages, different contribution levels, whether an initial member or a subsequent new entrant and any other relevant factors?

We agree that this is an important topic to consider in detail. If the employer is paying by separate fee, then it is clearly not an issue. But whenever charges are being deducted either for initial or ongoing services, apportionment is a key consideration.

We do not believe there is a single right or wrong approach here – much will depend on the nature of the scheme and the services being provided. The employer's preferences are also relevant here – employers will wish to be able to explain to members why the scheme is charging in the way it is. It would, however, be useful to set out some points for advisers and employers to consider when reaching a decision on how to allocate CC between members.

As part of this, it may be instructive to consider the scheme wide CC and any element agreed for personalised services to those members who accept these. For example, a flat charge of £150 may represent the time spent on providing personalised services to those individuals who accept them. This could be defined as fair. If a member is contributing a very low amount but still accepts this service in the knowledge that it will cost £150, then again it is hard to argue this is not fair even if it means nil allocation for a number of months. Indeed, not charging that member the full £150 is arguably unfair to other members who may be subsidising 'underpayers'.

Therefore, we believe the biggest concerns will be around apportioning the scheme-wide CC.

The biggest issue concerns the possibility that it is only the initial joiners who bear the 'overhead' costs of initial advice / adviser set-up charges. These can be significant. On the one hand, the concept of CC is that it should be related to services provided. If no further service is provided when a subsequent member joins, then strictly speaking, the adviser should receive no further CC. But it is unlikely that employers or employees will regard an approach where a 'day two' member is subject to lower charges as fair.

In our response to Question 9 we suggest that if the factoring ban is implemented, the FSA will have to consider the potential for nil allocation periods to re-emerge. We suggest two possible approaches. A third would be to set guidelines regarding the inappropriateness of allocating CC in a way which reduces member contributions by more than a given percentage.

AEGON continues to work on these aspects. We believe there would be merit in the FSA convening a CC implementation group, with representation from providers planning to offer this facility, to address these detailed issues.

Q11 Do you have any comments on the CBA outlined in Annex 2 to Section 3?

We have already highlighted in our response to Q9 that we believe the cost benefit analysis around the proposed ban on factoring for regular premium contracts is flawed, particularly for GPPs. We believe the FSA has grossly underestimated the costs in terms of reduced pension provision. We also believe it has misinterpreted the form of 'bias', and associated detriment within this market, calling into question any benefit whatsoever in banning provider factoring.

We would urge FSA to carry out a combined CBA covering both corporate pensions and individual retail investment markets.

Pure protection

Q12 Please provide any analysis or evidence you may have on the application of professional standards (professional conduct, qualifications and keeping knowledge up-to-date) to pure protection advice, both:

- a) where it is provided by an investment adviser; and*
- b) where it is provided by an adviser who does not advise on investments.*

We have no specific analysis that can directly answer the question posed.

AEGON supports applying the RDR principles - promoting consumer trust and encouraging transparency and intermediary professionalism - to the pure protection market. We would welcome further consultation on each of these aspects. We believe consideration should be given to both advised and non-advised situations. We also believe considerations around capital requirements of adviser firms should be extended to distributors of pure protection.

Appendix 1



Ms Sarah Thwaites
Director
Financial Services Skills Council
51 Gresham Street
London EC2V 7HQ

23 February 2010

Dear Sarah,

New ApEx standards

As you know, through our involvement with the ABI, AEGON has been an active participant in the development of the new ApEx standard.

We believe that the six units that make up the new standard for investment advisers, cover the necessary areas of knowledge and skills required and we believe that they are a suitable benchmark going forward.

AEGON also agrees that the protection unit should be set at QCF Level 3, within the overall QCF Level 4 Diploma requirement. However, in hindsight, we question whether the Regulation & Ethics paper would also be better set at Level 3, so that it could then become a core unit for many other categories of advice and guidance (Simplified Advice, Protection Advice, etc). Being set at the Level 4 may prohibit such a development, which would be a shame as the more 'modular' we can make financial service qualifications the greater will be the take up of learning and the portability of relevant examinations and qualifications.

We support the QCF Level 4 requirement. We also understand why the FSA has placed a 'minimum' requirement of 37 credits on this, as this matches the minimum QCF Diploma definition. AEGON supports the Diploma requirement, but we are mindful that the FSSC workgroup recommend approximately 600 hours (60 credits) of learning for new entrants. We accept that the FSA decision is pragmatic but from the earliest FSA Discussion Paper in 2007 until last year, the FSA has consistently declared a long term aim of a Level 6 qualification for future advisers. AEGON hopes that the new ApEx is seen as a stepping stone towards this long term goal for new entrants.

Finally, on behalf of AEGON I would like to thank you and the FSSC team (especially John Williams) for the excellent work you have done in developing the new ApEx standards.

Kind regards

Dr Peter Williams FCII FPFS
Chartered Financial Planner
Head of Industry Development, AEGON

cc Sally Rigg, FSA
Jeremy Evans, FSA

Appendix 2

Considerations around commission on post-2012 new entrants to existing group pension schemes

AEGON very much welcomes the FSA's stated intention to allow commission to continue to be paid in respect of new entrants and increments to group pension schemes in place before the RDR changes come into effect. We are aware that others have suggested commission should not be paid in respect of new entrants. We believe concerns raised in this regard are misplaced. To consider the pros and cons of allowing commission to continue for new entrants to pre-RDR schemes, we must first consider how providers might respond to a ban on such commission payments:

1. Make no further payments to advisers from the scheme in respect of new entrants

This would place advisers in a very difficult position as they would then have to seek remuneration for future support (not covered by any ongoing commission) from the employer on a fee basis. If employers were not prepared to do this, the adviser would either have to cease advising on the scheme or recommend the scheme be switched to generate a new flow of remuneration on a CC basis. See option 3 below. This option would inevitably lead to significant churn between providers with considerable financial loss to those with the existing schemes and no obvious gain to members.

It would also impact on activity in the run-up to RDR implementation. It would not be feasible for providers to continue to set up schemes on a commission-paying basis. Schemes could be written on a fee basis – where the employer is prepared to do this - or on a CC basis once the final rules for this are known and providers have amended systems. But the CC route might take 12 months minimum from date of rule finalisation leading to a significant reduction in activity at a time when pensions reform is beginning to come into effect.

2. Offer to set up a separate scheme for new entrants which would pay CC

This undermines the economies of scale and streamlined administration which are fundamental to group schemes being able to offer competitive charges to employees. It is also likely to prompt existing or new advisers to approach the employer to consolidate provision into a single scheme – again, resulting in churn. Again, this option is likely to significantly reduce activity in the run-up to RDR implementation / pensions reform.

3. Offer to replace the scheme with a new scheme offering CC

It is conceivable that some providers might design a process which allows this transition on a relatively streamlined basis. However, the costs involved would be extremely high. Equally, existing members will be confused as to why the scheme is being changed, and without effective communication might be prompted to opt out. The flexibility of CC arrangements would be a further consideration here – for example, CC on a pure matched basis would either lead to heavy upfront charges or

require the adviser to spread remuneration – and both of these options might be unattractive.

Not all providers will be willing or able to design such a process and even where a provider does, the adviser is likely (and indeed perhaps duty bound) to consider if there is a better alternative from another provider.

4. Facilitate deductions of CC from existing schemes in respect of new entrants only

It is highly unlikely that this could be implemented on any scale. The costs of implementing CC for new policies and schemes is already proving much more costly than had originally been anticipated. Any attempt to introduce a range of CC options across multiple legacy systems for different group pensions policies would be extremely difficult to justify on a cost benefit basis.

We believe this analysis validates the approach the FSA is proposing. It allows the group pensions market to continue in the run-up to RDR implementation - a period which overlaps with the introduction of new employer responsibilities under pensions reform. It avoids introducing a regulatory driver to replace existing schemes so all members are being treated on a consistent basis. It minimises the changes employers need to consider and therefore the likelihood they will level down or move to NEST. And it avoids creating employee confusion which might lead to some opting out at the point of transition to a new arrangement.

While it also allows the continuation of the commission model within the group market, we do not regard this as of concern. We have highlighted our analysis of the sorts of bias which do and don't exist. And for new entrants to existing schemes, there is clearly no possibility whatsoever of provider bias – the scheme is already in place and the availability of the employer contribution effectively guarantees the scheme as the most appropriate option.

Concerns that employers and advisers may be reluctant to switch schemes currently paying commission after RDR comes into effect, as this will require a move to CC, can be addressed by permitting a limited form of provider factoring.

AEGON and British Tennis

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- getting more people involved through parks and schools programmes
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