

For financial advisers only

Delivering the RDR – Discussion Paper DP10/2

Retail Distribution Review 17

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Introduction

On 26 March, the FSA published Discussion Paper DP10/2, *Platforms: delivering the RDR and other issues for discussion*. This follows on from a previous Discussion Paper in 2007 (DP07/2)¹ on the role of wraps, platforms and fund supermarkets and the subsequent Feedback Statement published in 2008 (FS08/1)².

The FSA is seeking views on how it should regulate all those involved in providing or advising on platforms, wraps and fund supermarkets either in support of RDR objectives or in addressing issues that have surfaced from the FSA's Thematic Review. The FSA intends to publish a Consultation Paper in the summer with a Policy Statement containing final rules by the end of 2010.

Alongside the Discussion Paper, the FSA published two papers following their Thematic Review which cover the project findings³ and a good and poor practice report⁴. This Bulletin focuses mainly on the Discussion Paper, although it links to the other papers.

The main points

The FSA has major concerns with current market practices around wraps, platforms and fund supermarkets (which we refer to from now on as platforms) and is reviewing how it should regulate this market. It expects platform advice to be a supervisory priority in future. The FSA agrees that a platform is a service and not a product and makes a number of proposals:

- Platforms should not undermine RDR objectives, particularly Adviser Charging and the removal of provider bias.
- Platforms should not provide incentives to advisers that result in additional costs with no compensatory consumer benefit, or that restrict choice for customers.
- All payments from product providers to platforms should be stopped; this includes rebates from fund managers.
- Customers should be provided with a clear description of all charges and services.

¹ DP07/2, *Platforms: the role of wraps and fund supermarkets*

² FS08/1, *Platforms and more principles-based regulation*

³ *Investment Advice and Platform usage. Investment advice and platforms: Project findings*

⁴ *Investment advice and platforms: Good and poor practice report*



- Where an advisory firm holds shares in a platform operator adequate procedures need to be in place, and appropriate disclosure is necessary, to make sure that the firm acts in the client's best interest.
- Advisory firms with a varied set of customers are unlikely to be able to use a single platform. The FSA has also rejected the notion that 'vanilla' tax wrappers are benign and that they remove the need for independent advisers to consider the wider market.
- All advisory firms - independent and restricted - will be required to consider off-platform investments as well.
- Due to potential consumer detriment the FSA is 'minded to make it compulsory for platforms to allow assets to be re-registered off their platform' by 31 December 2012.

Thematic Review

When the FSA published its 2008 Feedback Statement, it said it would undertake a thematic review into platform use and how charges and services are disclosed. Although based on a relatively small sample the review identified a number of significant problems in all the risk areas assessed including:

- failings to adequately disclose the combined cost of funds, product, platform and advice
- weak systems and controls within the adviser firm
- poorly explained charges
- poor documentation, and
- a lack of customer focus

As a result, the FSA will treat platforms advice as a supervisory priority in the future. In addition, it will expect disclosure material to be clear and succinct, irrespective of whether the platform is business-to-consumer or business-to-business.

Platform remuneration


The FSA wants to make sure adviser remuneration in connection with platforms doesn't undermine the RDR objectives, particularly regarding ending product and provider bias. It also doesn't want platform remuneration to restrict choice or influence the prominence of different products on a platform, including influencing the composition of a model portfolio or guided architecture offerings. Customers should also be aware of the amount they're paying for platform services and be able to easily compare the costs and services of different platforms.

The FSA found that disclosure of income from product providers, including from fund managers, wasn't prominent so customers may be unaware of the costs or the additional incentives that could influence an adviser. As a result, the FSA wants platforms to improve their standards of disclosure. It also considers payments from product providers for supplying administration services or for distributing products as commission payments.

The FSA has identified several options for platform remuneration, and it states a current preference for stopping all payments from product providers and fund managers to platforms to remove the risk of product or fund bias.

Non-advised services will be kept under review by the FSA.

Adviser charging



The FSA wants to make sure that platforms administer Adviser Charging (AC) to the same standards as providers of packaged products, meaning validated instructions will be required. It expects that a platform cash account will facilitate AC and this will have to be on a matched basis. However, the FSA states that customers should be aware of how much they're paying to use this facility. This may be an explicit charge, but there may also be an implicit charge. If a platform retains a proportion of the interest payable on cash accounts, it's important for this to be clearly and prominently disclosed to customers together with the rate of interest. In addition, customers should be able to stop any ongoing payments from their cash account, intended to pay for ongoing advisory services, to the adviser.

Customers should also be made aware of the consequences of having insufficient funds in their cash account to pay for AC, such as a liability to capital gains tax following unit redemptions.

In the forthcoming Consultation Paper, the FSA will consult on data requirements for product sales from both product providers and platform operators, but has confirmed that platform operators, like product providers, won't be required to actively monitor the effect of AC on products (the 'decency limits' debate).

The consultation will also extend to rules that prevent product providers from deferring, discounting or rebating their product charges in a way that they could appear to offset any AC, as the FSA notes this issue has arisen largely in connection with platforms. This rule would stop platforms passing a rebate of product charges to customers, including product provider rebates to customer cash accounts.

Monetary and non-monetary inducements

The FSA doesn't want to see inducements resulting in unnecessary asset switching on to, or between, platforms. It also doesn't want to see platforms becoming a channel for commission or commission-like payments from product providers or fund managers.

Platform services to advisers should be clear, fair and not misleading in their description of services. Conflicts of interest over planning tools will need to be managed, especially where product providers own, or partly own, the platform. It isn't the tools themselves that create the issue, but their potential use to direct investment to preferred funds that benefit the platform, product provider or adviser.

If an adviser firm holds shares in a platform operator, the adviser should disclose this to make sure the firm acts in the best interests of its customer.


Independence and platform use

The FSA wants to make sure that platform use doesn't undermine RDR objectives or the delivery of suitable advice (independent or otherwise). Advisers should make sure customers don't incur additional costs on their investments without corresponding additional benefit.

Although the FSA feels it has covered independence and the use of platforms in previous publications, alongside the Discussion Paper it has published examples of good and poor practice⁵ related to whole-of-market advice.

A firm with a varied set of customers is unlikely to be able to use a single platform for all its customers, and not all platform services will be suitable for its customers. The FSA also specifically

⁵ *FSA Investment advice & Platforms: Good and poor practice report - March 2010.*



states that an adviser (whether independent or restricted) must consider off-platform investments as well.

The FSA advises that independent advisers moving to the restricted label are still bound by best execution for the collective investment schemes they arrange.

Re-registration

If a platform doesn't allow customers to re-register their holdings off-platform, customers have to sell and rebuy in order to transfer them, with a potential tax liability and other transaction costs. Customers may also find it difficult or impractical to transfer assets to another provider.

As a result of the potential for customer detriment here, the FSA intends to make it compulsory for platforms to allow assets to be re-registered off their platform no later than the implementation of the RDR on 31 December 2012. The FSA notes that it will expect re-registration to be available whether an automated solution is in place or not.

The FSA continues to expect adviser firms to take this issue into account when choosing a platform. It will be contacting platform operators to make sure that communications to customers give a balanced description of the relative merits of using their services.

Capital adequacy

Platforms are expected to show they have enough capital resources to cover their wind-down costs, which would typically include the returning or transfer of client assets. The FSA considers the wind-down assessment should cover:

- the likely duration of the wind-down period
- the likely costs, including any costs arising as a result of terminating contracts
- any additional costs, including the number and types of employees needed for wind-down and third-party costs associated with wind-down activities (for example, lawyers' fees)
- the impact of distressed conditions on cashflow

The FSA requires firms to arrange adequate protection of clients' assets when it's responsible for them. Because the FSA is concerned that not all firms are providing this protection, it intends to continue to visit firms throughout 2010 to assess the adequacy of protection. This may also include platform operators.

Provision of information and voting rights

There is no regulatory requirement for platform operators to notify investors of a significant change in a fund, and voting rights may not be passed on to investors. The FSA regards a failure to pass on post-sale information and an inability to exercise voting rights as poor outcomes for investors.

What this means for you

The FSA is clearly concerned with some practices regarding the use and operation of platforms, and has highlighted a number of areas where it intends to take action. Adviser firms using, or considering using, platform services will need to be aware of the issues and understand their responsibilities. This will include considering:

- [reading and responding to the FSA's Discussion Paper and subsequent Consultation Paper](#)



- how charges customers will pay must be disclosed clearly, together with the services that are being offered in return, to allow easy comparison between different platforms
- what the impact will be if the FSA stops payments from product provider and fund managers to platforms
- the move from commission to AC within a platform – remembering that a switch between collective investments after 2012, even on the same platform, will require a move to AC (although this won't apply where the move is within an appropriate tax wrapper such as a Bond or SIPP)
- how AC may be facilitated through a platform cash account, and the requirements around clear and valid instructions to allow this
- how a customer's cash account may be managed to make sure sufficient funds exist to pay the AC
- how advisers might segment customers into those who are best served by different platforms, taking into account off-platform solutions
- the implications of having to re-register assets off-platform if the FSA requires this by the end of 2012

The outcome of the platforms consultation isn't expected until the end of 2010. For those advisory firms that are considering platforms, it would appear sensible to delay decisions until the regulatory position is clearer. For those firms that are already using platforms it's essential that they study the 'good and bad practice report' and consider what impact DP10/2 could have on their existing platform arrangements and what action they may need to take.

AEGON will continue to work with the adviser community as we transition into the post-RDR environment. Please visit our RDR online hub which we'll regularly update as further details emerge, particularly after publication of the Consultation Paper in the summer. Or visit our Business Brain site for help with reviewing your business model.

Our respected team of industry experts analyse new legislative and regulatory developments affecting financial services.

One of the ways the team regularly shares its thinking is through the industry lobbying blog on the AEGON UK website. To find out about the latest developments, go to <http://media.aegon.co.uk/blogs/industry>

To visit our RDR online hub, go to www.aegon.co.uk/industry/rdr/index.html

For help with reviewing your business model, please visit our Business Brain at www.aegon.co.uk/businessbrain

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