

# CP11/8<sup>★★</sup>

Financial Services Authority

## Data Collection:

Retail Mediation Activities Return and  
complaints data



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The Financial Services Authority invites comments on this Consultation Paper. Comments should reach us by July 8 2011.

Comments may be sent by electronic submission using the form on the FSA's website at: [www.fsa.gov.uk/Pages/Library/Policy/CP/2011/cp11\\_08\\_response.shtml](http://www.fsa.gov.uk/Pages/Library/Policy/CP/2011/cp11_08_response.shtml).

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A confidential response may be requested from us under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Tribunal.

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# Acronyms used in this paper

Acronym	Description
CBA	Cost benefit analysis
COBS	Conduct of Business sourcebook
CP	Consultation Paper
DISP	Dispute Resolution: the Complaints sourcebook
FCA	Financial Conduct Authority
FSA	Financial Services Authority
FSMA	Financial Services and Markets Act 2000
GPP	Group personal pensions
PS	Policy Statement
PSD	Product sales data
RDR	Retail Distribution Review
RMAR	Retail Mediation Activities Return
SUP	Supervision manual



# 1

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## Overview

### Introduction

- 1.1 This Consultation Paper (CP) addresses data collection issues that arise from the Retail Distribution Review (RDR) rules on Adviser Charging and Professionalism. It also sets out our proposals for:
- new requirements under the Retail Mediation Activities Return (RMAR), to allow us to collect data on Adviser Charging and Consultancy Charging revenue, payment methods and client numbers, and charging structures, from all firms that provide advice on retail investment products, including firms which provide services on group personal pensions (GPPs<sup>1</sup>); and
  - new complaints data at individual adviser level, which we intend to use in combination with other risk indicators as an indicator of behaviour that could imply potential consumer detriment.
- 1.2 The data we propose to collect is intended to help us achieve our objective of establishing a resilient, effective and attractive retail investment and corporate pension market in which consumers can have confidence and trust.
- 1.3 Draft rules covering both issues are set out in Appendix 1.

### Background

- 1.4 The final RDR rules on Adviser Charging and service description were published in March 2010, in PS10/6<sup>2</sup>, whilst the final rules on Consultancy Charging were published in June 2010 in PS10/10.<sup>3</sup> The final rules on Professionalism were published in January

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1 GPP is defined to include group personal pension schemes, group self-invested personal pensions and group stakeholder pension schemes.

2 PS10/6 *Distribution of retail investments – Delivering the RDR* (March 2010)

3 PS10/10 *Distribution of retail investments – Corporate Pensions* (June 2010)

2011, in PS11/1.<sup>4</sup> We have said in these and other publications that collecting data would be an important part of our supervisory approach post-2012, to mitigate the risk of poor consumer outcomes, such as those we identified in relation to our proposals on Adviser Charging.

- 1.5 In past publications, we have frequently spoken of extending the transactional data we currently collect through Product Sales Data (PSD) to inform our supervisory strategy. During 2010, we undertook extensive discussions with all sections of the industry to explain our thinking and to understand the possible implications for firms of this approach.
- 1.6 In general, the industry was sympathetic to our need to collect more data. They also agreed that implementing such requirements at the same time as the rest of the RDR changes made economic sense. However, not all sectors of the industry agreed on the detail of the proposals. In addition, there were strong calls from some to delay data collection until post-RDR business models were established to ensure that the right solution was implemented first time.
- 1.7 During the latter half of 2010, more detail also began to emerge about regulatory reform and the government's proposal to establish two separate regulators. It has already been stated that the RDR will become the responsibility of the Financial Conduct Authority (FCA). The emerging risk model for the FCA is one of prioritisation, intensive supervision and early intervention.
- 1.8 Given the industry challenges, we have concluded that now would not be the right time to introduce an additional set of requirements for transactional data. However, we will continue to develop our thinking on how transactional data would supplement the firm-level RMAR data proposed in this CP to enhance our supervision of the new rules. We will be putting in place a robust risk-based approach to supervision from the outset and, as the data strategy of the FCA evolves, we would expect the reliance on transactional data to increase in support of the planned approach. The proposed RMAR data will help us to supervise the RDR rules on a business-as-usual basis from 31 December 2012, at the firm and sector level, and are consistent with the emerging risk model for the FCA.
- 1.9 To inform our consultation in this CP, we carried out a survey of 450 firms (to which 95 firms responded) asking for their views on the cost implications of supplying the proposed new data. The results of the survey are included in the cost benefit analysis, which is summarised in Chapter 4.

## Equality and diversity issues

- 1.10 We have assessed the equality and diversity impact of our proposals. We are satisfied that the proposals will not have an adverse impact on equality and diversity. We have also assessed whether the proposals could lead to discriminatory behaviour by firms. We do not

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<sup>4</sup> PS11/1 *Distribution of retail investments: Delivering the RDR – Professionalism* (January 2011)

believe that they would lead firms to alter their behaviour in this way. However, we would welcome any comments respondents may have on this.

- 1.11** We encourage firms to bear in mind their responsibilities to their customers under the Equality Act 2010, when producing and selling investment products.

## **Structure of this CP**

- 1.12** The CP chapters cover:

- Chapter 2 – revised Retail Mediation Activities Return (RMAR).
- Chapter 3 – new complaints data at individual adviser level.
- Chapter 4 – summary of the cost benefit analysis (CBA).

## **Next steps**

- 1.13** This consultation ends on 8 July 2011. We intend to publish a Policy Statement giving feedback in the second half of 2011. If the FSA Board makes the rules following consultation they would then come into effect on 31 December 2012. We do not expect firms with reporting periods that do not start on 31 December 2012 to collect and report retrospectively the proposed new data from when their financial reporting period began. They would only need to submit data that was generated from 31 December 2012 onwards (see the transitional rules in Appendix 1).

## **Who should read this CP?**

- 1.14** The changes we are proposing to the RMAR and complaints data will be of interest to both advisers and providers active in the retail investment and corporate pensions markets. In addition, consumers and consumer bodies will be interested to know how we are proposing to use data to help with our supervision and enforcement of the new regime and ensure that the new rules are properly implemented.

# 2

## Revised Retail Mediation Activities Return (RMAR)

- 2.1** This chapter is relevant to any firm that provides advice on retail investment products<sup>5</sup>, including firms that provide services on group personal pensions (GPPs), within the scope of the RDR Adviser and Consultancy Charging rules. We are proposing changes to the Retail Mediation Activities Return (RMAR) rules, which are in Chapter 16 of the Supervision manual (SUP 16). These proposals are to change the RMAR as follows:
- a new section (Section K), which will require all firms that provide advice on retail investment products to provide data on Adviser Charging revenue, payment and client numbers, and charging structures;
  - a new section (Section L), which will require all firms that provide services on GPPs to provide data on Consultancy Charging and fees revenue, payment methods, employer client numbers and charging structures; and
  - minor changes to Section B (Profit and Loss account) and Section G (Training and Competence) to reflect the new definitions of adviser charge, consultancy charge, independent advice and restricted advice.
- 2.2** None of the proposals included in this chapter affects firms that are only permitted to undertake mortgage mediation activity and/or insurance mediation activity (non-investment insurance contracts).
- 2.3** Appendix 1 sets out the proposed amendments to SUP 16 to give effect to these reporting requirements. The relevant parts of SUP 16 are the reporting form (SUP 16 Annex 18a), the guidance notes for completing the RMAR (SUP 16 Annex 18b), and SUP 16.12, which sets out the reporting requirements for different regulated firms.

<sup>5</sup> Retail investment products are defined as (a) a life policy; (b) a unit; (c) a stakeholder pension scheme; (d) a personal pension scheme; (e) an interest in an investment trust savings scheme; (f) a security in an investment trust; (g) any other designated investment which offers exposure to underlying financial assets, in a packaged form which modifies that exposure when compared with a direct holding in the financial asset; or (h) a structured capital-at-risk product; whether or not any of (a) to (h) are held within an Individual Savings Account (ISA) or a child trust fund (CTF).

## Background to the RMAR and rationale for changes

- 2.4 Data plays a key role in our supervision of firms, identification of firm and sector risks, and development of policy. In particular, we rely on data to guide our supervision of small retail investment firms and ensure it is both effective and efficient, as these firms are not subject to the close and continuous relationship we have with our relationship-managed firms.
- 2.5 Data allows us to:
- assess firms' compliance with our rules, and identify firms on which we should target supervisory attention;
  - understand the business being undertaken by each firm and the risks such business poses; and
  - assess the risks in the relevant markets as a whole.
- 2.6 We do not currently regularly collect disaggregated data on adviser remuneration. With the introduction of the Adviser and Consultancy Charging rules, we will need to collect such data to be able to supervise effectively this aspect of the retail investment advice market.
- 2.7 We said in PS10/6 that we had identified a number of risks that we needed to monitor, and data would play an essential role in this. These risks included excessive adviser and product charging, the misrepresentation of advice status, and the manipulation of the apportionment of costs allocated to product charges and adviser charges by vertically integrated firms. Adviser charge data will also be essential for us to monitor and challenge the way that firms are implementing the new rules, to assess the outcomes of the RDR, and to inform future policy developments in this area.
- 2.8 We said in PS10/10 that we would need to monitor developments in the corporate pensions market and check that firms were adapting their business models to meet the requirements of the new rules.
- 2.9 We consider the most cost-effective way of collecting regular firm-level Adviser Charging and Consultancy Charging information to be through the RMAR, as it is an existing system which the industry is familiar with. Regular data tends to produce better information for FSA policy-making and supervision, and results in fewer demands for ad hoc data from firms.
- 2.10 Firms are required to send applicable RMAR data forms to us electronically every six months, (with larger firms reporting financial information quarterly) within 30 working days of the end of the reporting period. The data is reported by each individual authorised firm and, unless otherwise indicated, the information submitted should cover all of the firm's sales of relevant regulated products, and all of its associated customers and market counterparties (where relevant). The proposals in this CP do not change the timing, frequency and level of reporting requirements.

- 2.11 We routinely carry out spot checks on the accuracy of RMAR returns, and will do the same for Adviser and Consultancy Charging data. On occasion we have found what appears to be deliberate provision of incorrect data, some attempts to avoid submission at all, and a small minority who repeatedly submit late. In these circumstances we have taken, and will continue to take, the necessary action, which could result in a firm having its authorisation withdrawn.

### **Proposed new RMAR reporting form – Section K**

- 2.12 We set out below the proposed new data to be captured through Section K in the RMAR. Appendix 1 contains the draft Handbook text, where this new Section K can be seen more clearly. Only firms who advise on retail investment products, and so collect adviser charges, would be expected to complete this new section. It is proposed that firms covered by the proposed reporting requirements, regardless of size, complete Section K every six months, within 30 working days of the end of the reporting period. This data would be reported on a cumulative basis throughout the firm's financial year (as is currently the case with Section B of the RMAR), with the exception of the minimum and maximum adviser charges (see paragraphs 2.33 to 2.35).
- 2.13 We want to be able to calculate average adviser charges, at the firm, sub-sector and sector level, and for different types of service and advice. This is a key aim of our proposals to collect revenue and payment volume data. This will enable us to identify trends and anomalies and, consequently to target our firm-specific and thematic work. Excessive adviser charging may be an indicator that disclosure rules are being breached, adviser charges are being hidden in some way not foreseen by our rules, or that there is a lack of competitive pressure in parts of the industry. Unduly low adviser charges by firms that are the product provider and have an advisory arm, when compared with firms who just provide advisory services, may indicate that the allocation of costs to product charges and adviser charges are being manipulated: our rules specifically prohibit this. Unduly low adviser charges could also indicate that adviser charges are being concealed from the client and reported, for example, under 'other fees' of Section B, which would be against our rules. If the RMAR data indicates a rule breach, we will investigate.
- 2.14 All of the data proposed will be important for understanding firms' business models, and the risks these pose for consumers.
- 2.15 We intend to use the proposed RMAR data in conjunction with Product Sales Data where possible: for example, to monitor whether the availability of facilitation is influencing product placement, and to identify any divergence between the type of advice firms are claiming to give and the range of products they actually sell.

- 2.16 We have aimed to be proportionate in our proposals for collecting adviser charge data, and consider that our proposals do not place an undue burden on the industry. Our cost benefit analysis in Chapter 4 provides more detail on the estimated compliance costs.

### Breakdown of Adviser Charging revenue

- 2.17 We propose to collect the breakdown of Adviser Charging revenue by:

- type of advice (independent<sup>6</sup> or restricted<sup>7</sup>);
- type of service (initial or ongoing advice); and
- payment mechanism (directly from clients, facilitated via product providers or facilitated via platforms).

- 2.18 This breakdown is shown in Table 1. We would expect that most firms will only provide independent or restricted advice, in which case they would only need to complete half of this table.

**Table 1: Retail investment revenue from adviser charges**

Type of adviser charge	Independent Advice			Restricted Advice			Total
	Adviser charges received directly from retail clients	Adviser charges received via product providers	Adviser charges received via platform service providers	Adviser charges received directly from retail clients	Adviser charges received via product providers	Adviser charges received via platform service providers	
Initial							
Ongoing							
Total							

- 2.19 Initial adviser charges are described in the draft Handbook Text as all of the adviser charges received from retail clients during the reporting period for services related to a personal recommendation that are not ongoing, i.e. the charges are for a distinct, one-off advice service. They include charges paid as regular contributions where the charges relate to regular payment products and no ongoing service is provided. Ongoing adviser charges are described as all the adviser charges received from retail clients during the reporting period for an ongoing service.

<sup>6</sup> A new Independence standard comes into force from 31 December 2012. This states that a firm must not present itself to a retail client as acting independently unless the only personal recommendations in relation to retail investment products it offers to that retail client are (a) based on a comprehensive and fair analysis of the relevant market; and (b) unbiased and unrestricted (COBS 6.2A.3R).

<sup>7</sup> Restricted advice is a personal recommendation to a retail client in relation to a retail investment product that is not independent advice or that is Basic Advice.

- 2.20** The RDR rules ban the payment of commission for advised sales, but they allow product providers to facilitate the payment of adviser charges through the product. The columns entitled ‘adviser charges received via product providers’ are intended to capture adviser charging revenue received through this facilitation mechanism. Any commission received from legacy business should not be included in this new section, but should continue to be reported in RMAR Section B.
- 2.21** The Platforms Consultation Paper<sup>8</sup> (CP10/29), issued in November 2010, included a proposal to extend our rules so that platforms could facilitate the collection of adviser charges in the same way as product providers. The columns entitled ‘adviser charges received via platform service providers’ are intended to capture adviser charging revenue received through this facilitation mechanism. Should the final rules on platforms be different to those included in CP10/29, we would look to change our RMAR proposals accordingly.
- 2.22** In addition to enabling us to calculate average charges, this data would be used to understand sector dynamics and trends, such as the relative importance of initial versus ongoing adviser charging revenue, independent versus restricted advice, and payment mechanisms.

**Q1:** Do you expect to have any difficulty in providing the breakdown of Adviser Charging revenue in the way proposed? If so, please explain these difficulties.

### **Number of initial adviser charge payments**

- 2.23** We are proposing to collect the number of initial adviser charge payments received during the reporting period, as shown in Table 2. In combination with the revenue data, this information would allow us to calculate average initial adviser charges.
- 2.24** The payment data requested would be broken down in a similar way as Adviser Charging revenue – by type of advice and adviser charge payment mechanism. We would then be able to calculate average charges at this level, and develop an understanding of the influence (if any) that the type of advice and adviser charge payment mechanism have on adviser charges.
- 2.25** Under this proposal, a firm would be expected to record each time a retail client pays the whole initial adviser charge owing through a single payment (i.e. as a lump-sum payment). The total number of payments made in this way would then be recorded in the RMAR (in the first row of Table 2).
- 2.26** We are proposing that adviser charges being paid off through instalments should be reported in a different manner. An initial adviser charge may be structured to be payable over a period of time when it relates to a regular payment retail investment product. To include each instalment as a single payment would result in the calculation of an average

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<sup>8</sup> CP10/29 *Platforms: Delivering the RDR and other issues for platforms and nominee-related services* (November 2010)

adviser charge that is significantly lower than the actual average. To take into account these payment arrangements, we are proposing to require advisers to also record the proportion of the total charge paid off during the reporting period. This concept is explained further below.

- 2.27 For clients paying off their initial adviser charge through instalments, a firm would be expected to record each time a payment is made. Each instalment should be recorded by the firm as a percentage, and the sum of the percentages would be reported in the RMAR (in the second row of Table 2 below). For example, if a client pays off 10% of their initial adviser charge during the reporting period, then the firm would record this as '0.1' payments, and the sum of all of these percentages would be reported in the RMAR. To calculate the percentage of the total charge paid off during the reporting period, a firm could use either the length of the repayment period if the instalments are of equal value (i.e. the reporting period of six months divided by the length of the repayment period), or the amount paid (i.e. the amount paid divided by the total amount due). Both methods should arrive at the same answer.

**Table 2: Payments of initial adviser charges**

	Independent Advice			Restricted Advice			Total
	Adviser charges received directly from retail clients	Adviser charges received via product providers	Adviser charges received via platform service providers	Adviser charges received directly from retail clients	Adviser charges received via product providers	Adviser charges received via platform service providers	
No. of lump-sum payments							
Regular instalments as proportion of the total due							
Total							

- Q2: Do you expect to have any difficulty in providing the number of initial adviser charge payments in the way proposed?  
If so, please explain these difficulties.

### Number of contracts for one-off advice services

- 2.28 We are proposing to request the number of new contracts for advice concluded with clients during the reporting period that contain an agreement to pay initial adviser charges (i.e. they are agreements for a one-off advice service) (see Table 3). This would not include any contracts for advice that were cancelled with no initial adviser charge paid, or where the initial adviser charge was returned to the client.

**Table 3: Number of contracts for one-off advice services**

	Independent Advice	Restricted Advice	Total
Number of contracts			

2.29 This data, combined with ongoing client numbers, will give us an insight into the importance of one-off versus ongoing advice services, and what this might mean for the sustainability of firms' business models. We would also use this data, together with the minimum/maximum charge information (see paragraphs 2.33 to 2.35), to test the reliability of the reported revenue from initial adviser charges.

**Q3:** Do you expect to have any difficulty in providing the number of contracts for one-off advice services in the way proposed? If so, please explain these difficulties.

### Number of retail clients receiving ongoing advice services

2.30 We are proposing to collect (as shown in Table 4):

- the number of retail clients paying for an ongoing advice service at the end of the reporting period;
- the number of retail clients who began paying for an ongoing advice service during the reporting period; and
- the number of retail clients who stopped paying for an ongoing advice service during the reporting period.

**Table 4: Retail clients paying for ongoing service**

	Number
Retail clients paying for ongoing service at the end of the reporting period	
Retail clients who started paying for ongoing service during the reporting period	
Retail clients who stopped paying for ongoing service during the reporting period	

2.31 In the same way as the revenue breakdown, ongoing adviser charges are described as those associated with an ongoing advice service. The revenue received through customers spreading the payment of initial adviser charges over a period of time (for regular contribution products only) would be captured in the proposal outlined in paragraph 2.19.

2.32 In addition to enabling us to calculate average ongoing adviser charges, this information will provide insight into the stability of a firm's ongoing client revenue. We would use this data to compare the number of clients paying for ongoing advice services with the number

of financial advisers (reported in Section G of the RMAR), and investigate anomalies. As an example, a high ratio of clients to advisers could suggest that not all clients are receiving the advice service they are paying for. This data may also indicate the extent to which consumers are exercising their rights to cancel agreements for ongoing advice services across the sector.

**Q4:** Do you expect to have any difficulty in providing the number of clients receiving ongoing advice services in the way proposed? If so, please explain these difficulties.

### Adviser Charging structures

**2.33** We are proposing to ask advisers for information on their Adviser Charging structures through the RMAR (see Table 5). This would be the minimum and maximum charges for initial and ongoing advice services, on an hourly and/or percentage of investment basis. For example, if a firm has a range of adviser charges relating to different advice services, such as 0.25% of investment for a 'basic' ongoing service and 0.75% for a 'premium' ongoing service, it would include 0.25% as the minimum and 0.75% as the maximum under ongoing charges.

**Table 5: Minimum and maximum adviser charges**

Adviser charge type	Unit	Independent Advice		Restricted Advice		Typical charging structure (tick)
		Minimum	Maximum	Minimum	Maximum	
Initial charges	Charge per hour (£)					
	% of investment					
Ongoing charges	Charge per hour (£)					
	% of investment					

**2.34** This data would be used in conjunction with the calculated average adviser charges to provide a fuller picture of the adviser charging landscape. It would also be used to test the reliability of other data (such as the revenue and volume figures). We considered asking firms for their typical or median charge, but consider that this could be difficult to provide for firms who have ranges in their charging structure, for example, charges that differ depending on the type of service provided.

**2.35** We expect that advisers who structure their charges based on the type of advice service (rather than on an hourly or percentage of investment basis) would be able to work out what

this charge is per hour. Once reported, the firm would only need to recalculate their charges to fit within the data fields when they change their charges. Where a firm has no range in their charging structure, the minimum and maximum would be recorded as the same as previously reported. Where firms have both per hour and percentage of investment charges, we propose to ask firms to indicate what their typical charging structure is, or whether their charges are split evenly between the two types. We anticipate that this information would be relatively easy for firms to provide, given the need for firms to understand the cost and value of the advice services they provide for them to have a viable business model.

**Q5:** Do you expect to have any difficulty in providing the charging structure information proposed? If so, please explain these difficulties.

### **Proposed new RMAR reporting form – Section L**

- 2.36** In Policy Statement PS10/10 we set out our rules on applying the principles of ‘Adviser Charging’ to group personal pension schemes, group self-invested personal pensions and group stakeholder pension schemes, which we refer to in this document as the group personal pension market (GPP).
- 2.37** Consultancy Charging is the GPP equivalent to Adviser Charging in the individual personal pensions market. The costs of services on GPPs must be agreed with the employer, but can be obtained from employees’ accounts, in a similar fashion to individuals’ advice costs under Adviser Charging.
- 2.38** We set out below the proposed new data to be captured through Section L in the RMAR. Appendix 1 contains the draft Handbook text, where this new section is presented in context. Only firms who provide a service on GPPs, and so collect consultancy charges or fees, would be expected to complete this new section. It is proposed, as per Section K, that firms covered by the proposed reporting requirements, regardless of size, complete Section L every six months, within 30 working days of the end of the relevant reporting period, and covering data generated from 31 December onwards. This data would be reported on a cumulative basis throughout the firm’s financial year (as is currently the case with Section B of the RMAR), with the exception of the highest, lowest and typical consultancy charges (see paragraphs 2.48 to 2.49).
- 2.39** The data we propose to collect will allow us to understand GPP market dynamics and trends, including the degree of provision of initial, one-off and ongoing services to employers. It would also enable us to understand the use of the different payment systems, especially the incidence of fee-based services and the extent of the use of consultancy charges to fund employer services.

- 2.40 In the Consultancy Charging data tables that follow below, it is worth bearing in mind that there is no separation of ‘independent’ and ‘restricted’ advice (in contrast with our proposals on Adviser Charging data) because advice to employers about GPPs is not subject to our Conduct of Business rules, including the rules that differentiate between independent and restricted advice given to private individuals.
- 2.41 It is also worth bearing in mind that the following tables show data fields that adopt the description of charges/services as set out in the FSA industry-wide working group report into Consultancy Charging published<sup>9</sup> in March 2011.

### **Breakdown of Consultancy Charging and fee revenue**

- 2.42 We propose to collect data on Consultancy Charging and fees broken down by:
- Type of service:
    - initial services (i.e. for advice and/or services provided to employers at outset and when new members join. For example, the initial services for setting up a group personal pension scheme, such as advice on the election of the scheme provider and launching the scheme to employees);
    - ongoing services (i.e. for advice and/or services provided during the life of the group personal pension. For example, the processes for the annual renewal of scheme memberships or promoting the scheme to new members); and
    - one-off services (i.e. for advice and/or services provided during the life of the group personal pension not included previously in any initial or ongoing charges. For example, the one-off advice or services an employer may seek about an existing group personal pension scheme and whether it meets the government’s new requirements for auto-enrolment).
  - Payment mechanism:
    - fees received from employer clients (i.e. fees paid directly by employers to the adviser firm);
    - consultancy charges received via GPP product providers; and
    - consultancy charges received via platform service providers (the use of platforms with GPPs is thought to be small, but this data field has been included to ensure full coverage of all consultancy charges and also recognises that the use of platforms could increase).
- 2.43 In Table 6 we present our proposed data to be collected for Consultancy Charging and fees revenue broken down by type of service and payment mechanism.

<sup>9</sup> *Report to the FSA from the Consultancy Charging Working Group March 2011* can be found on the FSA’s website under the Group Personal Pensions section of the RDR pages at [www.fsa.gov.uk/smallfirms/your\\_firm\\_type/financial/rdr/rdr.shtml](http://www.fsa.gov.uk/smallfirms/your_firm_type/financial/rdr/rdr.shtml)

**Table 6: Retail investment revenue from group personal pension schemes or group stakeholder pension schemes fee and consultancy charges**

	Fees received directly from employer clients	Consultancy charges received via product providers	Consultancy charges received via platform service providers	Total
Revenue from initial consultancy charges				
Revenue from ongoing consultancy charges				
Revenue from one-off services				
<b>TOTAL</b>				

- 2.44 To complete the overall remuneration picture for a firm, we intend to use the data on GPP commission already gathered by the RMAR in Section B with the data contained in Section L. This will enable us to understand the effect the new rules have on how firms structure their businesses in a post-RDR world. For example, information in the above table coupled with commission income data in Section B of the RMAR will indicate whether firms are moving successfully across from commission-driven models to the new RDR remuneration models.
- 2.45 The payment route will also indicate whether firms favour particular payment channels, which could show continued provider bias in the market.
- Q6:** Do you expect to have any difficulty in providing the breakdown of Consultancy Charging and fee revenue in the way proposed? If so, please explain these difficulties.

### Number of one-off and ongoing services to employers

- 2.46 We propose to gather data on the numbers of adviser firms' employer clients, broken down between those who receive ongoing services and one-off services. This data is important, as it will give us an insight into the relative mix of services and also the importance firms place on one-off and longer-term relationships established with employers in the GPP market.
- 2.47 The following Tables 7 and 8 describe our Consultancy Charging proposals for one-off and ongoing services provided to employers. Table 7 covers the number of employer clients where a temporary relationship has been established between the firm and employer in the latest reporting period. Table 8 counts the longer-term relationships built between firms and employers.

**Table 7: Number of employers that received one-off services**

Number of employers that received one-off service in reporting period	
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**Table 8: Employer clients receiving ongoing group personal pension scheme and group stakeholder pension scheme services**

	Number
Number of employer clients receiving ongoing group personal pension scheme and/or group stakeholder pension scheme services at the end of the reporting period	
Number of employer clients who started receiving ongoing group personal pension scheme and/or group stakeholder pension scheme services during the reporting period	
Number of employer clients who stopped receiving ongoing group personal pension scheme and/or group stakeholder pension scheme services during the reporting period	

**Q7:** Do you expect to have any difficulty in providing information on the number of employers receiving either one-off services, ongoing services or both in the way proposed? If so, please explain these difficulties.

### Range of consultancy charges and structures

- 2.48** Table 9 proposes to gather data about an adviser firm's highest and lowest consultancy charges, as well as the typical amounts agreed with employers. This will help us understand how firms are applying the new rules and whether or not their charges are reasonable, or out of line with the market. The data gathered will represent the first year's charges expressed as a percentage of the total first year's contributions.
- 2.49** The data relates to new GPPs established in the reporting period. The data should be based on the firm's expected or projected Consultancy Charging remuneration for these new GPPs over the first year in which the schemes were set up.

**Table 9: Range of consultancy charges**

	Highest	Lowest	Typical
First year's projected consultancy charges (as % of first year's total employer and employee contributions) applying to group personal pension schemes or group stakeholder pension schemes set up in reporting period			

- 2.50** Table 10 proposes that data is collected about the make-up of a firm's consultancy charges, using a typical scheme arranged by that firm. This will help us understand how individual

firms and the market as a whole have responded to the new rules and are allocating consultancy charges between members of GPPs.

- 2.51 The data in Table 10 is intended to give some indication of the types of charging structures firms will cater for. We chose to request information on this basis to allow for the flexibility in which firms would receive payment of consultancy charges. We decided not to break down the information further, for example, by whether different types of charges are tiered for separate categories of member or are the same rates and amounts for all members, given the complexity of recording and reporting such data on a consistent basis over time

**Table 10: Types of consultancy charges in typical scheme (tick all that apply)**

	% of employer contributions	% of member contributions	% of fund (annual management charge)	Flat amount per member	Other
Active members					
Deferred members					

- Q8: Do you expect to have any difficulty in providing the range of consultancy charges and charging structure information proposed? If so, please explain these difficulties.

## Amendments to existing sections of the RMAR

- 2.52 We intend to make several minor amendments to the RMAR to reflect the new definitions of adviser charge, independent advice and restricted advice. Appendix 1 contains the draft Handbook Text, where it can be seen more clearly what text has been added. We are not proposing to change the types of firms required to complete Sections B and G of the RMAR.
- 2.53 Several amendments need to be made to the RMAR guidance<sup>10</sup> to make this consistent with the final RDR rules. These changes are included in Appendix 1. Sections B and G in Appendix 1 also reflect the cell referencing used by our current firm reporting system – GABRIEL<sup>11</sup> (GATHERING BETTER REGULATORY INFORMATION ELECTRONICALLY) – and so do not match the cell referencing reported in FSA Handbook Online.<sup>12</sup> The cell references reported in FSA Handbook Online are in the process of being updated to reflect the GABRIEL system reporting requirements.

10 SUP 16 Annex 18B: Notes for Completion of the RMAR

11 [www.fsa.gov.uk/pages/Doing/Regulated>Returns/IRR/gabriel/index.shtml](http://www.fsa.gov.uk/pages/Doing/Regulated>Returns/IRR/gabriel/index.shtml)

12 <http://fsahandbook.info/FSA/html/handbook/>

## Section B – Profit and loss account

- 2.54 We are proposing to collect total Adviser Charging revenue in Section B of the RMAR. This section currently asks for revenue from retail investments from commissions, fees and other income. We are proposing to change the ‘fees’ column title, and the relevant guidance, to make clear that revenue from adviser charges should be included here.
- 2.55 Under the current format of the RMAR, firms would be required to record consultancy charges and fees data within the ‘Fees / Adviser charges’ or ‘other income from regulated activities’ data fields of Section B. However, as we are proposing to create a new section (Section L) in order to capture data on consultancy charges and fees, the guidance notes for firms completing Section B of the RMAR will emphasise that consultancy charges and fees should not be recorded in either the ‘Fees / Adviser charges’ or ‘other income from regulated activities’ data fields, as it will be recorded in the proposed Section L of the RMAR.

## Section G – Training and competence

- 2.56 We are proposing to amend several row titles in Section G to ensure consistency with the new service disclosure rules, i.e. that advice is either independent or restricted. The proposed changes to Section G are:
- add a new category called ‘**Independent**’ (applies to retail investments only);
  - change ‘Multi-tie/the products of a limited number of providers’ to ‘**Restricted**/Multi-tie – the products of a limited number of providers’;
  - change ‘Single-tie/the products of one provider’ to ‘**Restricted**/Single-tie – the products of one provider’; and
  - add a third restricted option, which is ‘**Restricted** – limited types of products’ (applies to retail investments only).
- 2.57 The existing labels need to be retained for mortgage and general insurance. One of the proposals in the Mortgage Market Review Consultation Paper (CP10/28)<sup>13</sup> was that the terms ‘independent’ and ‘restricted’ should be adopted for service disclosure in the mortgage market. Should this change go ahead, Section G would need to be amended accordingly. Minor amendments have also been made to the Section G guidance notes to reflect that the ICOB (Insurance: Conduct of Business) section of the Handbook was replaced by ICOBS (Insurance: Conduct of Business Sourcebook) in 2008.
- Q9:** Do you expect to have any difficulty in changing your systems and/or procedures to accommodate the changes proposed to Sections B and G of the RMAR? If so, please explain these difficulties.

13 CP10/28 *Mortgage Market Review: Distribution and Disclosure* (November 2010)

# 3

## Complaints data at individual adviser level

### Overview

- 3.1 The RDR is intended to create standards of professionalism that inspire consumer confidence and build trust in the investment advice sector, consistent with our Consumer Protection Strategy. In addition, since the outset of the RDR, we have been urged by numerous firms to use our powers to tackle what they describe as the ‘bad eggs’ in the market. So we are developing a risk-based approach to supervising individual retail investment advisers, increasing the focus on their professional standards and conduct.
- 3.2 Much RDR coverage has focused on qualifications reform, but we have always stressed that professionalism is about much more than just knowledge levels. The proposals described in this chapter are designed to help us create a better understanding of individual advisers’ ethical behaviour and competence through the collection and analysis of complaints data.
- 3.3 There has been much discussion about complaints levels in various sectors of the market, and what can be concluded from these numbers. The proposals set out here would apply to all retail investment advisers, including those in banks, stockbrokers, wealth managers, product providers, independent financial advisers and other intermediaries providing advice on retail investment products. We recognise the limitations of complaints as indicators of poor quality advice but, subject to those limits, this data would help us to focus our supervisory efforts on individuals that do not meet the standards expected of them.

- 3.4 As already described in CP10/14<sup>14</sup>, CP10/22<sup>15</sup> and, most recently in PS11/1, our supervisory approach in this area<sup>16</sup> will be supported by a triage function. A triage team within the Small Firms and Contact Division of the FSA will receive information about individual advisers, score individuals in terms of their risk level and, in collaboration with our firm supervision teams, investigate higher-risk individuals. Supervisory or enforcement action will, where appropriate, be taken against individuals and firms.
- 3.5 In this CP, we set out further proposed requirements to support this approach to supervision. We propose adding individual adviser complaints data to other information to provide an integrated picture of where potential risks regarding individual retail investment advisers may arise or have already developed. This would enable us to take action where these risks are significant.

### Rationale for collecting complaints data

- 3.6 We need to ensure that we collect adequate and relevant data on individual retail investment advisers' conduct so we can score them.
- 3.7 We have consulted<sup>17</sup> on changes to the complaints handling rules and an increase to the ombudsman service award limit. These changes are designed to improve consumer outcomes from complaints handling and maintain the degree of consumer protection afforded by the ombudsman service in real terms. We plan to publish a Feedback Statement and final rules in May 2011.
- 3.8 In relation to complaints handling by firms, a complaint is defined broadly in the Handbook Glossary as:

Any oral or written expression of dissatisfaction, whether justified or not, from, or on behalf of, a person about the provision of, or failure to provide, a financial service, which alleges that the complainant has suffered (or may suffer) financial loss, material distress or material inconvenience.<sup>18</sup>

- 3.9 We believe that complaints in combination with other risk indicators may be a useful indicator of potential unsuitable advice. For example, in the recent case involving FSA enforcement action against Barclays for failures in relation to the sale of two funds, of the

14 CP10/14 *The RDR: Professionalism*, including its applicability to pure protection advice, with feedback to CP09/18 and CP09/31 (June 2010).

15 Consultation Paper 10/22, *Quarterly CP*, published in October 2010, on the Retail Distribution Review: professionalism notifications (TC).

16 Other relevant policy papers include:

- Discussion Paper 10/1 published in March 2010 on emerging risks and mass claims; and
- Consultation Paper 10/21, published in September 2010, on consumer complaints.

17 CP10/21 proposes changes to our complaint handling rules and the ombudsman award limit.

18 See Glossary at <http://fsahandbook.info/FSA/glossaryhtml/handbook/Glossary/C?definition=G197> for the full definition of 'complaint'.

12,000 or so investors, 1,730 complained about the advice they were given to invest in the funds. We do not think that complaints should be used as an absolute measure but rather as one of several risk indicators.

- 3.10** We have discussed using complaints as a risk indicator with the Financial Industry Regulatory Authority (FINRA)<sup>19</sup> in the US, which has considerable experience in complaints reporting. Individual complaints are one of the most important indicators used by FINRA in its risk assessment of broker-dealers. FINRA collects information about customer complaints against broker-dealers and their registered representatives through three methods:<sup>20</sup>
- regular and ongoing reporting for firms and individual registered representatives;
  - quarterly reporting by firms of statistical and summary information on customer complaints; and
  - investors reporting directly to FINRA.
- 3.11** We recognise that any data we collect is likely to be an indicator of possible issues rather than a definite measure requiring action. This is because a complaint may arise for reasons beyond the individual adviser's control, or it may be unjustified. We also recognise that, while complaints received can indicate poor quality advice or service, an absence of complaints is not a reliable indicator of good quality advice. Importantly, we will in future be able to view the complaints record of an adviser through their career as an approved person, something that individual firms are not in a position to do.
- 3.12** While all firms have existing obligations to deal with complaints properly and report them to us, we appreciate that some firms are better than others at recognising and dealing with complaints. We will continue to look for good and poor practice in this area and will act where our intervention is warranted.

## Proposals

### Complaints data linked to the investment adviser's Individual Reference Number

- 3.13** We want to collect data regarding complaints against each firm's individual investment advisers. We are proposing that new complaints data will be reported by firms on a regular and on an ongoing basis, through two of the FSA's existing reporting methods currently available to firms:
- **Firms' regular complaints reporting:** by breaking down existing firm-level regular complaints reporting at adviser level.

<sup>19</sup> FINRA is the leading non-governmental regulator for all securities firms doing business with the US public – nearly 4,600 firms employing approximately 630,000 registered representatives.

<sup>20</sup> The first two methods of collection are mandatory for firms.

- **Firms' ongoing complaints alerts:** by adding complaints data to existing reporting on individuals in the FSA's Form D: Notification of changes in personal information or application details.

**3.14** Alongside new complaints data from firms, we expect accredited bodies to share information with the FSA in relation to the professional standards of the retail investment advisers who use their services as appropriate, including complaints data.<sup>21</sup> From July 2011, firms will also need to alert us to competence and ethics issues in relation to individual advisers.<sup>22</sup>

## Complaints reporting methods

### *Regular reporting through the Complaints Return Form*

**3.15** Twice a year a firm must provide the FSA with a complete report concerning complaints received.<sup>23</sup> They do this through the Complaints Return Form. This provides information broken down by type of firm, the products and services complained about, and the cause of the complaints, as well as overall figures on the number of complaints closed within eight weeks and the proportion of complaints upheld or rejected by firms.<sup>24</sup>

**3.16** We are asking firms to disaggregate this information at the individual retail investment adviser level. The report must provide information broken down by FSA Individual Reference Number on the total number of complaints, total number of complaints upheld, and total amount of redress paid in the firm's last reporting period.

**Q10:** Do you expect to have any difficulty in providing the breakdown of adviser complaints in the way proposed for firms' regular complaints reporting? If so, please explain these difficulties.

## Ongoing reporting through the FSA's Form D: Notification of changes in personal information or application details

**3.17** Our rules require firms to provide information on matters that impact on the fitness and propriety of their advisers, including competence (competence includes achieving a good standard of ethical behaviour), through the use of Form D.<sup>25</sup> We intend to introduce additional data requirements in this form requiring firms to provide information about complaints made against individual advisers in specified circumstances, set out below.

21 PS11/1 *Distribution of retail investments: Delivering the RDR – professionalism* (January 2011)

22 TC 2.1.31 applies from July 2011

23 <http://fsahandbook.info/FSA/html/handbook/DISP/1/10>

24 [www.fsa.gov.uk/Pages/Library/Other\\_publications/complaints\\_data/index.shtml](http://www.fsa.gov.uk/Pages/Library/Other_publications/complaints_data/index.shtml)

25 <http://fsahandbook.info/FSA/html/focus-on-APRPTC/SUP/10/Annex7>

- 3.18** On 31 December 2012, firms will have an ongoing obligation to report consumer complaints against their advisers using Form D that meet the following reporting requirements.
- 3.19** We propose to include in SUP 10 Annex 7 Form D a new section called ‘Complaints Data’ reflecting the reporting requirements mentioned below. In this section we will ask firms to provide information on an ongoing basis regarding their retail investment advisers when:
- a complaint against an adviser employed by the firm involves a claim of more than £5,000, regardless of its status<sup>26</sup>; or
  - an adviser is the subject of three complaints in any 12-month period (other than claims that have already been notified to the FSA using this form; the 12-month period restarts after each notification under this proposed rule).
- 3.20** We do not intend to ask for detailed information regarding the complaint. We will only require a notification of the occurrence of any complaint or complaints meeting the requirements above.
- 3.21** We publish complaints data relating to firms on the FSA website. We do not intend to publish any information regarding complaints at the adviser level. We believe that complaints may not provide a complete picture of an adviser’s behaviour and competence and in some cases complaints may be outside the adviser’s control.
- Q11:** Do you agree with the amendments to Form D to capture additional complaints information? Please justify your answer.
- Q12:** Do you expect to have any difficulty in providing the breakdown of adviser complaints in the way proposed for firms’ ongoing complaints alerts? If so, please explain these difficulties.
- 3.22** We also considered the use of a mailbox as an interim solution for ongoing reporting of complaints rather than using our strategic option – Form D. Although the interim solution would imply lower implementation costs for the FSA, we have rejected it on the basis of the expected volume and nature of complaints received. In terms of the impact to firms we believe that costs to firms would be consistent with those for the interim or strategic methods of collection, but we would require, for the interim solution, firms to start reporting complaints at the beginning of 2012 in order to start building our understanding of adviser complaints ahead of the RDR implementation date.

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<sup>26</sup> Opened, closed, upheld or settled complaints.

**Q13:** We believe that, although costs to firms of the interim and the strategic options are broadly the same, firms need a longer lead time to start notifying us of complaints against their advisers, so we propose to adopt the strategic option for ongoing reporting. Do you agree?

# 4

## Cost benefit analysis

- 4.1 Section 155 of FSMA requires us to publish a cost benefit analysis (CBA), which is defined as an estimate of the costs together with an analysis of the benefits of our proposals.
- 4.2 Our approach to CBA considers the following impacts of our proposals:
- the direct costs to us;
  - the compliance costs to firms;
  - the indirect costs of our proposals on the market; and
  - the benefits associated with the proposals.
- 4.3 As described in Chapters 2 and 3 of this CP, we are looking to introduce rules on:
- creating a new section of the RMAR (Section K), which will require all firms who provide advice on retail investment products to provide data on Adviser Charging revenue, payment and client numbers, and charging structures;
  - creating a new section of the RMAR (Section L), which will require all firms who provide services on GPPs (group personal pension schemes, group self-invested personal pension schemes and group stakeholder pension schemes) to provide data on consultancy charges and fee revenue, payment method, client numbers and charging structures;
  - making minor changes to Section B (Profit and Loss account) and Section G (Training and Competence) of the RMAR to reflect the new definitions of ‘adviser charge’, ‘consultancy charge’, ‘independent advice’ and ‘restricted advice’;
  - asking firms to break down regular complaints reporting, not only by terms of activity and product, but now also at individual adviser level; and
  - asking on an ongoing basis for firms to report certain complaints against individual advisers made on or after 31 December 2012 through Form D when they fulfil one or both of the following:

- a) A complaint against an adviser employed by the firm involves a claim of more than £5,000, regardless of its status.
- b) An adviser is the subject of three complaints in any 12-month period (noting that the 12-month period restarts after each notification under this proposed rule).

## Approach

- 4.4 This CBA compares a scenario where our proposed requirements are in place with a scenario in which they have not been introduced (i.e. the counterfactual). For these requirements we estimate the incremental costs of complying with our proposals and analyse the benefits.
- 4.5 The scope of this CBA relates only to our proposed reporting requirements. This CBA has not costed the underlying policy that has led to our additional data requirements (e.g. the costs of firms moving to an Adviser Charging model), as this has been costed in CP09/18 and PS10/6. The costs to be assessed in this CP primarily relate to setting up records (including training); maintaining, interpreting and reviewing records in this format (including senior management sign-off), and transmitting data. Given the difficulties that firms in our sample may have faced in differentiating between costs resulting from some of the policy requirements and those resulting from the proposed new reporting requirements, some double counting may have occurred despite the best efforts of the FSA and firms in the sample.

## Methodology

- 4.6 To produce a CBA that captures information on the incremental impacts of our proposals envisaged by firms we first identified the population of firms affected by the proposals.
- 4.7 The population figure was defined by identifying all authorised firms with at least one retail investment adviser on their books. This definition was used because only firms that give retail investment advice through an adviser would be affected by our proposals. Information on adviser numbers was obtained through Section G Training and Competence of the RMAR.
- 4.8 Most recent year-end returns were chosen to record the number of advisers, so this would reflect any fluctuations in adviser staffing that happened throughout the course of the year.
- 4.9 The population of firms that would be affected by the proposals was calculated as 5,490 firms<sup>27</sup> and further segmented according to firm size classifications as follows:

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27 3,027 of these firms conducted GPP business between 2008-2011

- large-sized firms (19 or more retail investment advisers) = 199 firms;
  - medium-sized firms (4-18 retail investment advisers) = 1,271 firms; and
  - small-sized firms (1-3 retail investment advisers) = 4,005 firms.
- 4.10** An additional layer of segmentation was created under ‘large-size firms’ for large banks, networks and platform operators. These three categories of firms were considered to be sufficiently different to other ‘large firms’, because of their relative size (in excess of 500 advisers) and choice of business models (platform operators), and their actual survey responses indicated that they should be treated separately from other ‘large’ classified intermediaries.
- 4.11** The populations we assumed for these three types of firms were as follows:
- Large banks (+500 retail investment advisers) = five firms;
  - Large networks (+500 retail investment advisers) = four firms; and
  - Platform operators (with permissions to give retail investment advice) = six firms.
- 4.12** From the population figures above we then selected a representative sample (450 firms) that we segmented in a similar manner to the overall population, i.e. by firm size and primary category.
- 4.13** Firms selected in the sampling were then invited to fill out an online survey. We followed up their responses by telephone or further email correspondence where we believed the units of reporting were incorrect or to probe specific areas of costs.
- 4.14** In total we received responses from 95 firms ranging in size, structure and regulated activities. They included banks, networks, platform operators, financial advisers, benefit consultants, mutual societies, life companies, stockbrokers, investment managers, general insurance intermediaries, home finance brokers and authorised professional firms. The wide range of firms that responded to the survey supported our assumption that the population of firms affected by our proposals was broad.
- 4.15** Of the 95 firms who responded to the survey, we identified that 65 had also conducted GPP business in the past year. We contacted these firms to ask them additional cost and impact questions on collecting data on consultancy charges.
- 4.16** From the responses received we calculated the proportion of firms in the sample that said they expected to incur a cost and the median costs for those firms. We then grossed up these costs ‘per firm’ based on the population segmentation described earlier, so the total estimated costs of the proposals could be calculated. Where firms provided a basis for the cost estimates, e.g. in terms of remuneration levels and numbers of days required for a certain task, this was used to calculate the cost for the firm. Otherwise, any total cost figures provided by firms were used, even if the disaggregation of costs were not provided.

- 4.17 In the case of an organisation having appointed representatives (e.g. networks) or coordinating retail investment business activities on behalf of a number of subsidiaries, we asked that they included in their estimates the costs of appointed representatives or subsidiaries submitting data to the organisation first.
- 4.18 The range of estimates reported by firms was large even within the identified segments. To calculate the overall industry costs we therefore used the median within each segment. Based on past estimates of the costs of introducing the RMAR and complaints reporting requirements, we think our estimates are reasonable.

### Direct costs to the FSA

- 4.19 As a result of the proposed reporting requirements, costs will arise for the FSA. These direct costs arise from:
- the development, implementation and maintenance of systems for capturing and validating financial and other information from firms carrying on regulated retail activities; and
  - the time required to follow up non-submission of information.
- 4.20 We estimate that direct costs to us of amending our systems, collecting data and providing reporting will range from £800,000 to £1,200,000. Of this, the direct costs to us in relation to the complaints proposals are estimated to range from £500,000 to £700,000. We do not anticipate the ongoing cost of maintaining the key systems and data to be significant and expect them to fall into our business as usual IS costs and therefore are not explicitly stated.

### Compliance costs

- 4.21 The overall incremental compliance costs of our proposals are shown in Table 11.

**Table 11: Total industry compliance costs (£m)**

Firm category	One-off costs	Annual ongoing costs
Large banks	0.8	0.1
Large networks	0.4	0.1
Platform operators	1.3	0.1
Large firms	1.7	0.7
Medium firms	1.2	1.0
Small firms	1.5	0.9
<b>Total</b>	<b>6.7</b>	<b>2.9</b>

- 4.22 The results presented in Table 11 show that overall we estimate the industry costs of our proposals to be £7 million one-off and £3 million annual ongoing costs.
- 4.23 Larger intermediaries, including banks, networks and platform operators, envisage higher one-off costs per firm because they reported, on average, that a larger number of systems and processes would be affected by our proposals (four systems compared with one for small intermediaries). They also reported that they would require more training and staff man-days and higher expected external consultancy costs to implement changes than their smaller intermediary counterparts.
- 4.24 Smaller intermediaries make up the majority of firms submitting RMAR or complaint returns. They have estimated lower one-off costs per firm and higher ongoing costs than the largest firms from our proposals. Possible explanations for this include:
- Small firms are able to implement change more quickly due to their flexibility in comparison with larger firms.
  - Small firms will have fewer transactions to report and are less likely to need sophisticated systems to enable data record management, so reducing their set-up costs. However, this works against them on an ongoing basis, as the lack of systems and processes that improve efficiency and regularity of data collection could be influencing their estimates for ongoing costs associated with the new RMAR data proposals.
  - Small firms may have low expectations of having complaints raised against them, leading to lower one-off and annual costs on complaints data collection for these firms.
- 4.25 Table 12 summarises the total compliance costs according to the summary proposal headings. Firms reported that the changes proposed to the RMAR would contribute the most to the increase in overall compliance costs.

**Table 12: Total industry compliance costs (£m) by proposal**

Proposal	One-off costs	Annual ongoing costs
RMAR	6.0	2.6
Complaint data regular reporting	0.6	0.2
Complaint data ongoing alerts	0.1	0.1
<b>Total</b>	<b>6.7</b>	<b>2.9</b>

## Indirect costs (market impacts)

- 4.26 We expected the impact of the proposals on the intermediary sector to be low, as they do not seek to change firms' behaviour, and the compliance costs would not be large enough to lead to firms exiting the market.
- 4.27 These results have been confirmed by survey respondents, in which the majority of respondents said they believed that the proposed new reporting requirements would have no material market impact on the quantity, quality and variety of services offered by firms. All the firms that responded did not indicate, in response to questions regarding the impact on their business strategy, that they would leave the market as a consequence of the proposals, so we believe the impact on efficiency of competition to be immaterial.

## Benefits

### *RMAR*

- 4.28 Most of the benefits of our proposals arise from the analysis and use of data for FSA supervisory purposes of a combination of data items. So, we outline here the overall benefits of collecting the data proposed rather than looking at single data fields or tables. The rationale for collecting specific data types is covered in Chapters 2 and 3 respectively.
- 4.29 Our proposed reporting requirements will allow us to target our supervisory resources efficiently. We will be able to identify firms whose adviser and consultancy charges information diverges significantly from peers, sector and industry averages. While this does not necessarily mean that a rule is being breached, it may give an indication of a potential problem and enable us to take action as required. We consider that the collection, analysis and follow up through supervision of data increases the likelihood that firms will comply with our rules, which reduces the probability and impact of consumer detriment that may arise from rule breaches.
- 4.30 To the extent that our proposals enable us to supervise effectively the compliance of firms with the final RDR rules, the key benefits are intrinsically the same as those that arise from imposing the rules in the first place. A key element of the RDR has been the introduction of Adviser and Consultancy Charging. The adviser is no longer remunerated by commission, but by setting his own charge, which will have a fundamental effect on the way the market operates. Therefore, the data needed to supervise the compliance with and operation of these rules is different to the data we currently collect under RMAR. In order to supervise the extent to which our rules are allowing competitive forces to work in favour of consumers, we will need to collect data specifically linked to adviser and consultancy charges. In addition, our rules requiring vertically integrated firms to base adviser charges on the cost of providing the associated service (rather than allocating some of these costs to the product charges) similarly will require charges data to supervise these firms.

- 4.31 The data proposed are also necessary to help identify possible ways in which adviser remuneration (through Adviser and Consultancy Charging) could result in poor consumer outcomes and allow us to target our thematic work on the most significant issues. It will also assist us in understanding firms' business models, including their sustainability, and whether they pose any risks for consumers. This data will provide us with an understanding of the Adviser and Consultancy Charging landscape, of developments in competition and the impact on consumer outcomes. This data specifically linked to charges is important if we are to supervise these new rules properly, assess outcomes of the RDR, and inform future policy developments.
- 4.32 Some responses from the survey also indicated that firms thought our proposed reporting requirements would improve their record keeping and management, which would facilitate more effective running of their business.

#### *Complaints data*

- 4.33 We intend to use complaints data to inform our assessment of an adviser's adherence to the new standards expected, specifically the requirement that advisers are competent and achieve a good standard of ethical behaviour and therefore support the supervision of individual advisers.
- 4.34 Ensuring that we are aware of advisers with a higher number of complaints or more serious cases will enable us to investigate the need for further action.
- 4.35 The proposals for new requirements on disclosing complaints made against retail investment advisers may themselves also act as an effective deterrent to misconduct and help reduce the risk that advisers conduct their activity in such way that consumers have cause for complaint.
- 4.36 Ensuring that complaints made against retail investment advisers are properly disclosed together with further analysis by the FSA, recognising the limitations of complaints data as an indicator of quality of advice, may contribute to improving the quality of advice and help deliver higher standards of professionalism. We will investigate where indicators show that advisers may not be competent or may not behave ethically. Enforcement action will be taken as appropriate, contributing to improving the quality and professionalism of the advice industry.
- 4.37 Knowing that advisers' conduct is being effectively monitored and supervised provides incentives to comply with the RDR rules. In the longer term this may help to rebuild consumers' trust and confidence in the industry, which in turn should improve their levels of engagement.

**Q14:** Do you have any comments on the cost benefit analysis?

## Annex 1:

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# Compatibility statement

### Introduction

1. In this annex we set out our view on how our proposals and draft rules in this CP are compatible with our general duties under Section 2 of FSMA and our regulatory objectives set out in Sections 3 to 6 of FSMA. We also outline how our proposals are consistent with the principles of good regulation (also in Section 2 of FSMA), to which we must 'have regard'.

### Compatibility with our statutory objectives

2. The proposals outlined in this CP are designed to help us meet two of our statutory objectives: maintaining confidence in the financial system and securing the appropriate degree of protection for consumers. We do not consider that our proposals have any material impact on our financial crime or financial stability objectives.

#### *Market confidence*

3. We believe that the information on adviser charges we propose to gather through the RMAR will help us to monitor firms' adherence to the rules on adviser and consultancy charges and service description rules. Collecting disaggregated complaints data at adviser level will help to inform our supervision of individual advisers. This should enable us to respond effectively to potential risks that could undermine market confidence.

#### *Consumer protection*

4. The information we receive will help us to identify issues proactively within individual firms and in the market as a whole that may lead to consumer detriment. The ability to identify these issues in a timely manner will provide us with an opportunity to address potential risks promptly, helping us to reduce instances of consumer detriment.

## Compatibility with the principles of good regulation

5. Section 2(3) of FSMA requires that, in carrying out our general functions, we have regard to the principles of good regulation.

### *The need to use our resources in the most efficient and economic way*

6. Data is a key part of our supervision strategy for small retail investment firms, as an efficient and cost-effective way of monitoring a firm's activities and trends in the market as a whole relative to relationship-managed supervision. The collection of the proposed additional data will allow us to monitor and analyse the outcomes of the RDR more effectively, rather than relying solely on interaction with individual firms to gather information.

### *The responsibility of those who manage the affairs of authorised persons*

7. Our proposals do not interfere in any way with the responsibility of firms' senior management, but rather encourage the use of management information to ensure their business is run in a professional and compliant manner.

### *The principle that a burden or restriction which is imposed should be proportionate to the benefits*

8. We have carried out a CBA (see Chapter 4). We are satisfied that the costs of our proposals are proportionate to the benefits.

### *The desirability of facilitating innovation*

9. Our proposals are not expected to hinder innovation. In designing our reporting requirements, we have aimed to structure them in a way that will be compatible with a wide range of Adviser Charging arrangements.

### *The international character of financial services and markets and the desirability of maintaining the competitive position of the UK*

10. We do not consider that these proposals will adversely affect the competitive position of the UK.

### *The need to minimise the adverse effects on competition*

11. We do not consider that our proposals will have a material effect on competition, as explained in our CBA.

### *The desirability of facilitating competition*

12. We do not consider that our proposals will have a material effect on competition.

*Acting in a way that we consider most appropriate for the purpose of meeting our statutory objectives*

13. The proposals in this CP are designed to help us meet the objectives of the RDR, and so improve consumer protection, while minimising costs for firms. So, we consider that the proposals are the most appropriate for meeting our statutory objectives.



## Annex 2:

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# List of questions

- Q1:** Do you expect to have any difficulty in providing the breakdown of Adviser Charging revenue in the way proposed? If so, please explain these difficulties.
- Q2:** Do you expect to have any difficulty in providing the number of initial adviser charge payments in the way proposed? If so, please explain these difficulties.
- Q3:** Do you expect to have any difficulty in providing the number of contracts for one-off advice services in the way proposed? If so, please explain these difficulties.
- Q4:** Do you expect to have any difficulty in providing the number of clients receiving ongoing advice services in the way proposed? If so, please explain these difficulties.
- Q5:** Do you expect to have any difficulty in providing the charging structure information proposed? If so, please explain these difficulties.
- Q6:** Do you expect to have any difficulty in providing the breakdown of Consultancy Charging and fee revenue in the way proposed? If so, please explain these difficulties.
- Q7:** Do you expect to have any difficulty in providing information on the number of employers receiving either one-off services, ongoing services or both in the way proposed? If so, please explain these difficulties.

- Q8:** Do you expect to have any difficulty in providing the range of consultancy charges and charging structure information proposed? If so, please explain these difficulties.
- Q9:** Do you expect to have any difficulty in changing your systems and/or procedures to accommodate the changes proposed to Sections B and G of the RMAR? If so, please explain these difficulties.
- Q10:** Do you expect to have any difficulty in providing the breakdown of adviser complaints in the way proposed for firms' regular complaints reporting? If so, please explain these difficulties.
- Q11:** Do you agree with the amendments to Form D to capture additional complaints information? Please justify your answer.
- Q12:** Do you expect to have any difficulty in providing the breakdown of adviser complaints in the way proposed for firms' ongoing complaints alerts? If so, please explain these difficulties.
- Q13:** We believe that, although costs to firms of the interim and the strategic options are broadly the same, firms need a longer lead time to start notifying us of complaints against their advisers, so we propose to adopt the strategic option for ongoing reporting. Do you agree?
- Q14:** Do you have any comments on the cost benefit analysis?

Appendix 1:

---

# Draft Handbook text

# RETAIL DISTRIBUTION REVIEW (RETAIL MEDIATION ACTIVITIES RETURN AND COMPLAINTS DATA) INSTRUMENT 2011

## Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of:
- (1) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
    - (a) section 138 (General rule-making power);
    - (b) section 156 (General supplementary powers);
    - (c) section 157 (Guidance); and
  - (2) the rule-making powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

## Commencement

- C. This instrument comes into force on 31 December 2012.

## Amendments to the Handbook

- D. The modules of the FSA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Supervision manual (SUP)	Annex B
Dispute Resolution: Complaints sourcebook (DISP)	Annex C

## Notes

- E. In this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

## Citation

- F. This instrument may be cited as the Retail Distribution Review (Retail Mediation Activities Return and Complaints Data) Instrument 2011.

By order of the Board  
[date]

## Annex A

### Amendments to Glossary of definitions

In this Annex, underlining indicates new text.

Amend the following definition as shown:

*complaint*

...

- (2) (in SUP 10 and *DISP*, except *DISP* 1.1 and the *complaints handling rules* and the *complaints record rule* in relation to *MiFID business*) any oral or written expression of dissatisfaction, whether justified or not, from, or on behalf of, a *person* about the provision of, or failure to provide, a financial service, which:

...

...

## Annex B

### Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

10.13.17 R (1) A firm that employs retail investment advisers that are approved persons must notify the FSA, as soon as practicable on Form D in the form set out in SUP 10 Annex 7R, if any of its retail investment advisers is the subject of:

(a) 3 complaints in any 12 month period; or

(b) a complaint where the value of the claim exceeds £5,000.

(2) For the purposes of calculating the number of complaints in (1)(a) the firm must exclude complaints previously notified to the FSA under this rule.

(3) This rule applies to complaints received on or after 31 December 2012.

[Note: See DISP 1.10.2AR for the duty to notify complaints under the complaints reporting rules].

...

#### **10 Annex 7R Form D: Notification of changes in personal information or application details**

After the “Fitness and Propriety” section of Form D insert the following new section “Complaints Data”.

The text in the new section is not underlined.

## Complaints Data<sup>†</sup>

This section is only to be submitted for *approved persons* who are *retail investment advisers*.

In relation to activities regulated by the *FSA*, has the *retail investment adviser*:

a) been the subject of a *complaint* where the value of the claim exceeds £5,000?

Enter full details in this section

b) been the subject of three *complaints* in any twelve *month* period (other than claims that have already been notified to the *FSA* using this form)?

Enter full details in this section

...

Amend the following as shown.

16.12.22A R The applicable *data items* referred to in *SUP* 16.12.4R are set out according to type of *firm* in the table below:

Description of data item	Firms' prudential category and applicable data item (note 1)					
	<i>BIPRU 730k firm</i>	<i>BIPRU 125k firm and UCITS investment firm</i>	<i>BIPRU 50k firm</i>	<i>Exempt CAD firms subject to IPRU(INV) Chapter 13</i>	<i>Firms (other than exempt CAD firms) subject to IPRU(INV) Chapter 13</i>	<i>Firms that are also in one or more of RAGs 1 to 6 and not subject to IPRU(INV) Chapter 13</i>
...						
Fees and levies	...	...	...	...	...	
<u>Adviser charges</u>	<u>Section K RMAR</u>	<u>Section K RMAR</u>	<u>Section K RMAR</u>	<u>Section K RMAR</u>	<u>Section K RMAR</u>	<u>Section K RMAR</u>

	<u>(Note 24)</u>	<u>(Note 24)</u>	<u>(Note 24)</u>	<u>(Note 24)</u>	<u>(Note 24)</u>	<u>(Note 24)</u>
<u>Consultancy charges</u>	<u>Section L RMAR</u> <u>(Note 24)</u>	<u>Section L RMAR</u> <u>(Note 24)</u>	<u>Section L RMAR</u> <u>(Note 24)</u>	<u>Section L RMAR</u> <u>(Note 24)</u>	<u>Section L RMAR</u> <u>(Note 24)</u>	<u>Section L RMAR</u> <u>(Note 24)</u>
IRB portfolio risk ...	...	...	...			
...						
<u>Note 24</u>	<u>This item only applies to firms that advise on retail investment products.</u>					

...

16.12.23 R The applicable reporting frequencies for *data items* referred to in *SUP 16.12.22AR* are set out in the table below. Reporting frequencies are calculated from a *firm's accounting reference date*, unless indicated otherwise.

<i>Data item</i>	Frequency				
	Unconsolidated <i>BIPRU investment firm</i>	Solo consolidated <i>BIPRU investment firm</i>	<i>UK Consolidation Group</i> or <i>defined liquidity group</i>	Annual regulated business revenue up to and including £5 million	Annual regulated business revenue over £5 million
...					
Section J RMAR	...	...	...	...	...
<u>Section K RMAR</u>	<u>Half yearly</u>	<u>Half yearly</u>	<u>Half yearly</u>	<u>Half yearly</u>	<u>Half yearly</u>
<u>Section L RMAR</u>	<u>Half yearly</u>	<u>Half yearly</u>	<u>Half yearly</u>	<u>Half yearly</u>	<u>Half yearly</u>
Note 1	...				
...					

16.12.24 R The applicable due dates for submission referred to in *SUP 16.12.4R* are set out in the table below. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period set out in *SUP 16.12.23R*, unless indicated otherwise.

<i>Data item</i>	Daily	Weekly	Monthly	Quarterly	Half yearly	Annual

...						
Section J RMAR						...
Section <u>K</u> RMAR					<i>30 business days</i>	
Section <u>L</u> RMAR					<i>30 business days</i>	
Note 1	...					
...						

...

**16 Annex 18AR      Retail Mediation Activities Return ('RMAR')**

...

DRAFT

**SECTION B: Profit and Loss account**

**B1: Regulated Business Revenue**

	A	B	C	D	E
	Commissions		Fees / <u>Adviser charges</u>	Other income	Regulated business
	Gross	Net		(reg activities)	revenue
1 Regulated mortgage contracts					
2 Non-investment insurance					
3 Retail investment <u>product</u>					
4 TOTAL					

**B2: Other P&L**

5 Income from other FSA regulated activities	
6 Other Revenue (income from non-regulated activities)	
7 TOTAL REVENUE	
8 TOTAL EXPENDITURE	
9 Profit/Loss on ordinary activities before taxation	
10 Profit/Loss on extraordinary activities before taxation	
11 Taxation	
12 Profit/Loss for the period before dividends and appropriations	
13 Dividends and other appropriations	
14 Retained Profit	

...

**SECTION G: Training and Competence**

- 1 Total number of all staff  
Of which:
- 2 Number of staff that give advice
- 3 Number of staff that give advice (Full time equivalent)
- 4 Number of staff that supervise others to give advice
- 5 Number of advisers that have been assessed as competent
- 6 Number of advisers that have passed appropriate examinations
- 7 Number of advisers that have left since the last reporting date

	A	B	C	D
	Advising on mortgages	Advising on non-investment insurance (retail customer)	Advising on retail investment products	Total

**What types of advice were provided?  
(tick all that apply)**

- 15 **Independent**
- 8 Independent (whole of market plus option of fee-only)
- 9 Whole of market (without fee-only option)
- 10 On the basis of a fair analysis of the market
- 11 Restricted / Multi-tie - the products of a limited number of providers
- 12 Restricted / Single-tie - the products of one provider
- 16 Restricted - limited types of products

	Mortgage	Non-Inv Insurance	Retail Investment products

Clawed back commission (retail investment firms only)

- 13 Clawed back commission by:
- 14

Number	
Value	

...

After "Section J" insert new Section K. The text is not underlined.

**SECTION K: Adviser charges**

A                      B                      C                      D                      E                      F                      G

**Retail investment product revenue from adviser charges**

		<i>Independent Advice</i>		<i>Restricted Advice</i>			Total
		<i>Adviser charges received directly from retail clients</i>	<i>Adviser charges received via product providers</i>	<i>Adviser charges received via platform service providers</i>	<i>Adviser charges received directly from retail clients</i>	<i>Adviser charges received via product providers</i>	<i>Adviser charges received via platform service providers</i>
1	Revenue from initial adviser charges						
2	Revenue from ongoing adviser charges						
3	TOTAL						

**Payments of initial adviser charges**

		<i>Independent Advice</i>		<i>Restricted Advice</i>			Total
		<i>Adviser charges received directly from retail clients</i>	<i>Adviser charges received via product providers</i>	<i>Adviser charges received via platform service providers</i>	<i>Adviser charges received directly from retail clients</i>	<i>Adviser charges received via product providers</i>	<i>Adviser charges received via platform service providers</i>
4	Number of lump-sum payments						
5	Regular instalments as proportion of the total due						
6	TOTAL						

**Number of contracts for one-off advice services**

		<i>Independent Advice</i>	<i>Restricted Advice</i>	Total
7	Number of contracts			

**Retail clients paying for ongoing service**

Number

- 8 *Retail clients* paying for ongoing service at the end of the reporting period
- 9 *Retail clients* who started paying for ongoing service during the reporting period
- 10 *Retail clients* who stopped paying for ongoing service during the reporting period


**Minimum and maximum adviser charges**

	<i>Independent Advice</i>		<i>Restricted Advice</i>		Typical charging structure (tick)
	Minimum	Maximum	Minimum	Maximum	
11 Initial <i>adviser charge</i> per hour (£)					
12 Initial <i>adviser charge</i> as percentage of investment					
13 Ongoing <i>adviser charges</i> per hour (£)					
14 Ongoing <i>adviser charge</i> as percentage of investment					



Amend the following as shown.

**16 Annex 18BG**      **Notes for Completion of the Retail Mediation Activities Return ('RMAR')**

**Scope**

...

6. The following *firms* are required to complete the *RMAR*:

...

(d) other investment *firms* that have *retail customers* (defined as *retail investment firms*), and have permission to carry on the following activities in relation to *retail investments investment products*:

- *advising on investments*;
- *arranging (bringing about) deals in investments*;
- *making arrangements with a view to transactions in investments*;

*Retail investments investment products* are defined as:

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

whether or not any of (a) to (h) are held within an *ISA* or a *CTF*.

...

**EEA Firms**

...

10. In broad terms, *incoming EEA firms* carrying on *regulated activities* through a branch in the *United Kingdom* are not required to complete the sections of the *RMAR* in the following table.

Prudential reporting requirements	Section A (balance sheet)
	Section B (profit & loss)
	Section C ( <i>client money</i> )

	Section D (capital requirements)
	Section E (professional indemnity insurance)
Threshold conditions	Section F (save in relation to questions about <i>approved persons</i> )
Training & competence	Section G
<u>Adviser charges</u>	<u>Section K</u>
<u>Consultancy charges</u>	<u>Section L</u>

11. *Firms* that only carry on *reinsurance mediation* are not required to complete ~~section~~ sections C, K or L.

...

### Authorised professional firms

...

14. Where APFs are required to submit financial information (i.e. sections A to E), they should do so in relation to all of their *regulated activities*. ~~Section~~ Sections F, K and L should also be completed in relation to all *regulated activities*. Other sections (G to I) need not include information in relation to *non-mainstream regulated activities*. However, APFs may complete all sections on the basis of all of their *regulated activities* if this approach is more cost effective.

...

### Section B: guide for completion of individual fields

...	
Fees / <u>Adviser charges</u>	You should record here <u>adviser charges</u> , net income received from <i>customers</i> or other sources on a fixed fee rather than commission basis, but only in respect of the relevant <i>regulated activities</i> . <u>Consultancy charges should not be recorded here.</u>
Other income from regulated activities	You should record here any income that has derived from the relevant <i>regulated activities</i> during the reporting period, which has not been recorded under commissions or fees or <u>adviser charges</u> . <u>Consultancy charges should not be recorded here.</u>  Such income may include interest on <i>client money</i> , where the <i>firm</i> is permitted to retain this, or payments made by <i>product providers</i> on a basis other than fees or commissions.
...	...

...

## Section G: Training & Competence

...

### Section G: guide for completion of individual fields

...	...
What types of advice were provided? (tick all that apply)	If staff provide more than one type of advice ( <u>for example, they restrict their product range by <i>product provider</i> and type of product</u> ), or in relation to more than one business type (i.e. <i>home finance transaction</i> advising, advising on <i>non-investment insurance contracts</i> , or <i>retail investment products</i> ), tick all that apply.
<u>Independent</u>	<u>For a retail investment firm to provide independent advice its personal recommendations must be based on a comprehensive and fair analysis of the relevant market, and be unbiased and unrestricted (COBS 6.2A.3R)</u>
Independent (whole of market plus option of fee-only)	To <del>provide independent advice</del> hold itself out as acting <u>independently, a firm carrying on home finance mediation activity</u> must consider products from across the whole of the market, and offer its clients the opportunity to pay by fee ( <del>MCOB 4.3.7R, COBS 6.2.15R</del> ).
Whole of market (without fee-only option)	A <u>firm carrying on home finance mediation activity</u> provides whole of market recommendations when it has considered a large number of products that are generally available from the market as a whole.
On the basis of a fair analysis of the market	<del>A firm gives recommendations on a fair analysis of the market when it has considered a large number of providers in the relevant sector(s) of the market (ICOB 4.2.11R).</del>  <u>If an insurance intermediary informs a customer that it gives advice on the basis of a fair analysis, it must give that advice on the basis of an analysis of a sufficiently large number of contracts of insurance available on the market to enable it to make a recommendation, in accordance with professional criteria, regarding which contract of insurance would be adequate to meet the customer's needs. (See ICOBS 5.3.3R, see also ICOBS 4.1.6R and ICOBS 4.1.8G).</u>
<u>Restricted / Multi-tie / - the products of a limited number of providers</u>	A firm provides <u>advice on multi-tie advice when it recommends</u> products selected from a limited number of provider firms <u>only</u> .  <u>Restricted advice applies to advice on retail investment</u>

	<u>products. Multi-tie applies to insurance mediation activity and home finance mediation activity.</u>
<u>Restricted / Single-tie / - the products of one provider</u>	A firm provides <del>single-tie</del> advice <u>on when it recommends</u> products selected from one provider firm only.  <u>Restricted advice applies to advice on retail investment products. Single-tie applies to insurance mediation activity and home finance mediation activity.</u>
<u>Restricted – limited types of products</u>	<u>A firm provides advice on limited types of products.</u>

...

After “Section J: data required for calculation of fees” insert the following new annexes (Section K: Adviser Charges and Section L: Consultancy Charges). The text is not underlined.

### **Section K: Adviser charges**

In this section we are seeking data from *firms* in relation to *adviser charges*. We will use the data we collect to monitor and analyse the way *retail investment firms* implement the rules on *adviser charges*.

Data in this section should be reported on a cumulative basis throughout the *firm’s* financial year, with the exception of the minimum and maximum *adviser charges*. All the data in this section should only be in respect of *retail investment products*.

In most cases, *firms* are asked to split the data based on whether the advice was *independent* or *restricted*. *Independent advice* is a *personal recommendation* to a *retail client* in relation to a *retail investment product* which is based on a comprehensive and fair analysis of the relevant market, and is unbiased and unrestricted (COBS 6.2A.3R). *Restricted advice* is advice which is not *independent advice*. *Restricted advice* includes *basic advice*, but the rules on *adviser charges* do not apply to a *firm* when it gives *basic advice*, so revenue from *basic advice* should not be captured here.

For revenue from *adviser charges* and payments of initial *adviser charges*, *firms* are also asked to split the data based on the payment mechanism, i.e. whether the *adviser charges* have been received directly from *retail clients*, via *product providers*, or via *platform service providers*. COBS 6.1B.9R allows for *firms* to facilitate the payment of *adviser charges* from a *retail investment product* or otherwise by means of a *platform service*.

Firms that have *appointed representatives* should include their *appointed representatives* as well as the *firm* itself in the information submitted in this section.

Data elements are referred to by row first, then by column, so data element 2B will be the element numbered 2 in column B.

## Section K: guide for completion of individual fields

<b>Adviser charge revenue</b>	
Initial <i>adviser charges</i> (row 1)	<p>These are all <i>adviser charges</i> received from <i>retail clients</i> during the reporting period for services related to a <i>personal recommendation</i> that are not ongoing – i.e. the charges are for a distinct, one-off advice service.</p> <p>These charges may be paid as a one-off lump sum, or as regular contributions over a period of time if the <i>adviser charge</i> relates to a <i>retail investment product</i> for which an instruction from the <i>retail client</i> for regular payments is in place and the <i>firm</i> has disclosed that no ongoing <i>personal recommendations</i> or service will be provided.</p>
Ongoing <i>adviser charges</i> (row 2)	These are all <i>adviser charges</i> received from <i>retail clients</i> during the reporting period for an ongoing service.
<i>Adviser charges</i> received directly from <i>retail clients</i> (column A, data elements 1A to 6A)	These are all <i>adviser charges</i> received directly from <i>retail clients</i> .
<i>Adviser charges</i> received via <i>product providers</i> (column A, data elements 1B to 6B)	These are all <i>adviser charges</i> received via <i>retail investment product providers</i> who facilitate, directly or through a third party, the payment of <i>adviser charges</i> from a <i>retail client's retail investment product</i> .
<i>Adviser charges</i> received via <i>platform service providers</i> (column C, data elements 1C to 6C)	These are all <i>adviser charges</i> received via <i>platform service providers</i> who facilitate, directly or through a third party, the payment of <i>adviser charges</i> by means of a <i>platform service</i> .
<b>Payments of initial <i>adviser charges</i></b>	See above three rows for an explanation of the different payment mechanisms.
Number of lump-sum payments received (row 4)	This is the number of initial <i>adviser charge</i> payments received as a lump sum during the reporting period, i.e. the <i>client</i> has paid the entire initial <i>adviser charge</i> in one payment.
Regular instalments as the proportion of the total due (row 5)	An initial <i>adviser charge</i> may be structured to be payable over a period of time when it relates to a <i>retail investment product</i> for which an instruction from the <i>retail client</i> for regular payments is in place and the <i>firm</i> has disclosed that no ongoing <i>personal recommendations</i> or service will be provided. Each instalment should be captured by the <i>firm</i> as

	<p>a fraction, to two decimal places, representing the amount paid off as a proportion of the amount owed. The sum of these fractions should be reported in the appropriate data field in row 5 to two decimal places.</p> <p>This could be calculated either using (1) the length of the repayment period, if these instalments are of equal value, or (2) the amount paid. These two methods are outlined below (both methods should arrive at the same answer).</p> <p>(1) For each <i>retail client</i> calculate the number of <i>months</i> in the reporting period in which equal instalments are made divided by the total number of <i>months</i> in which payments are due to be made. Sum up fractions based on payment mechanism and type of advice and report in the appropriate field.</p> <p>(2) For each instalment calculate the amount paid divided by the total amount due. Sum up fractions based on payment mechanism and type of advice and report in the appropriate field.</p>
Number of contracts for one-off advice services (row 7)	This should be the number of new contracts concluded with <i>retail clients</i> during the reporting period which contain an agreement to pay initial <i>adviser charges</i> (i.e. they are agreements for a one-off advice service). Any contracts subsequently cancelled where no initial <i>adviser charge</i> was paid, or where the initial <i>adviser charge</i> was returned to the <i>retail client</i> , should be excluded.
<b>Retail clients paying for ongoing services</b>	
<i>Retail clients</i> paying for ongoing services (row 8)	This should be the number of <i>retail clients</i> paying for ongoing services (i.e. paying ongoing <i>adviser charges</i> ) at the end of the reporting period.
<i>Retail clients</i> who start paying for ongoing services (row 9)	This should be the number of <i>retail clients</i> who began paying for an ongoing service (i.e. paying ongoing <i>adviser charges</i> ) during the reporting period.
<i>Retail clients</i> who stop paying for ongoing services (row 10)	This should be the number of <i>retail clients</i> who stopped paying for ongoing service (i.e. paying ongoing <i>adviser charges</i> ) during the reporting period.
<b>Charging structure</b>	
Minimum and maximum <i>adviser charges</i>	<p>Only those fields relevant to the <i>firm's</i> charging structure should be completed.</p> <p>If a <i>firm's</i> charging structure is not based on per hour rates or percentage of <i>investment</i>, it will need to estimate its <i>adviser</i></p>

	<p><i>charge</i> to be consistent with these units. For example, if it charges for a certain service, it will need to work out how many hours it takes to provide this service, divide the service charge by this number of hours, and report the resulting charge per hour.</p> <p>If a <i>firm</i> has per hour rates and by percentage of <i>investment adviser charges</i>, it should report both and indicate what the typical charging structure is for initial and ongoing services. If the <i>adviser charges</i> received are split evenly between the different charging types for initial and/or ongoing services, tick both per hour and by percentage of <i>investment</i>.</p> <p>Where a <i>firm</i> has no range in their charging structure, the minimum and maximum should be recorded as the same.</p>
--	---

## Section L: Consultancy charges

In this section we are seeking data from *firms* in relation to *consultancy charges*. We will use the data we collect to monitor and analyse the way *retail investment firms* implement the rules on *consultancy charges*.

*Consultancy charges* are payable on behalf of an employee to a *firm* or other intermediary in respect of advice given or services provided in connection with *group personal pensions schemes* (including a group *SIPP*) and *group stakeholder pension schemes*.

*Consultancy charge* data should be reported on a cumulative basis throughout the *firm's* financial year, with the exception of the highest, lowest and typical *consultancy charges*. All the data in this section should only be in respect of *retail investment products*.

*Firms* are asked to split the data on revenue from *consultancy charges* by payment mechanism, i.e. whether the *consultancy charges* have been received directly as a *fee* from the employer, via *product providers*, or via *platform service providers*. *COBS 6.1D.9R* allows for *firms* to facilitate the payment of *consultancy charges* from a *retail investment product* or otherwise by means of a third party such as a *platform service provider*.

*Firms* that have *appointed representatives* should include their *appointed representatives* as well as the *firm* itself in the information submitted in this section.

Data elements are referred to by row first, then by column, so data element 2B will be the element numbered 2 in column B.

## Section L: guide for completion of individual fields

<b>Retail investment revenue from either or both <i>group personal pension scheme</i> and <i>group stakeholder pension scheme fee and consultancy charges</i></b>	
Initial <i>consultancy charges</i> (row 1)	These are all of the <i>consultancy charges</i> received during the reporting period for services provided at the scheme outset and/or the date new members join, that are not ongoing.
Ongoing <i>consultancy charges</i> (row 2)	These are all <i>consultancy charges</i> received during the reporting period for an ongoing service.
One-off charges (row 3)	These are all of the <i>fees</i> and <i>consultancy charges</i> for services provided during the term of the <i>group personal pension scheme</i> or <i>group stakeholder pension scheme</i> , which have not been included in row 1 or row 2.
<i>Fees</i> received directly from employer clients (column A, data elements 1A to 4A)	These are all of the <i>fees</i> received directly from employer clients.
<i>Consultancy charges</i> received via <i>product providers</i> (column B, data elements 1B to 4B)	These are all <i>consultancy charges</i> received via <i>retail investment product providers</i> who facilitate, directly or through a third party, the payment of <i>consultancy charges</i> .
<i>Consultancy charges</i> received via <i>platform service providers</i> (column C, data elements 1C to 4C)	These are all <i>consultancy charges</i> received via <i>platform service providers</i> who facilitate, directly or through a third party, the payment of <i>consultancy charges</i> by means of a <i>platform service</i> .
<b>Number of employers that received one-off services</b>	
Number of employers that received one-off services in the reporting period (row 5)	This should be the number of employers who received services of a one-off nature not included previously in any initial or ongoing charges within the reporting period and where no ongoing service is envisaged.
<b><i>Employer clients</i> paying for either or both ongoing <i>group personal pension scheme</i> and <i>stakeholder pension scheme</i> services</b>	
Employer clients receiving ongoing services (row 6)	This should be the number of employer clients receiving ongoing services (i.e. paying ongoing <i>consultancy charges</i> ) at the end of the reporting period.
Employer clients who start receiving ongoing services (row 7)	This should be the number of employer clients who began receiving an ongoing service (i.e. paying ongoing <i>consultancy charges</i> ) during the reporting period.
Employer clients who stop receiving ongoing services (row 8)	This should be the number of employer clients who stopped receiving an ongoing service (i.e. paying ongoing <i>consultancy charges</i> ) during the reporting period.

<b>Range of consultancy charges</b>	
Highest, lowest and typical consultancy charges (row 9)	<i>Firms</i> need to report the highest, lowest and typical consultancy charges calculated as the first year's projected consultancy charges (as % of first year's total employer and employee contributions) applying to <i>group personal pension schemes</i> and <i>group stakeholder pension schemes</i> set up in the reporting period
<b>Types of consultancy charges in typical scheme</b>	
Charging structures offered to active and deferred members of <i>group personal pension schemes</i> and <i>group stakeholder pension schemes</i>	Only those fields relevant to the <i>firm's</i> typical charging structure should be completed.  Tick all that apply.

Amend the following as shown.

### Transitional provisions

#### TP 1.2

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional Provision	Transitional Provision: dates in force	Handbook provision; coming into force
12M	...				
	<u>(20A)</u> <u>SUP 16.12.22AR</u>	<u>R</u>	<u>Where a <i>firm</i> is required under SUP 16.12.22AR to submit information on <i>adviser charges</i> in Section K of the RMAR or <i>consultancy charges</i> in Section L of the RMAR the <i>firm</i> is not required to report information collected prior to 31 December 2012.</u>	<u>31/12/2012</u> to <u>30/06/2013</u>	<u>31/12/2012</u>

...

## Schedule 2 Notification requirements

...

Sch 2.2 G

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
...				
<u>SUP 10.13.17A R</u>	<u>Retail investment advisers (RIA) – if a firm’s RIA is the subject of a complaint with claim value over £5,000 or the subject of 3 complaints in last 12 months</u>	<u>Approved Persons Form D Notification of Complaints Data (see SUP 10 Annex 7)</u>	<u>Retail investment adviser is the subject of a complaint with a claim value of over £5,000 or is the subject of three complaints in a 12 month period.</u>	<u>As soon as practicable</u>
...				

## Annex C

### Amendments to Dispute Resolution: Complaints sourcebook (DISP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 1.10.1 R Twice a year a *firm* must provide the *FSA* with a the following complete ~~report~~ reports concerning *complaints* received from *eligible complainants*.  
The ~~report~~ must be set out in the format in *DISP 1 Annex 1R*:
- (1) a report set out in the format in *DISP 1 Annex 1R*; and
  - (2) a report set out in the format in *DISP 1 Annex 1CR*.
- ...
- 1.10.2A R (1) *DISP 1 Annex 1CR* requires (for the relevant reporting period) information about:
- (a) the total number of *complaints* received by the *firm* by *retail investment adviser*;
  - (b) the total number of *complaints* closed by the *firm* by *retail investment adviser*;
  - (c) the total number of *complaints* upheld by the *firm* by *retail investment adviser*;
  - (d) the total amount of redress paid in respect of *complaints* during the reporting period by *retail investment adviser*.
- (2) For the purpose of *DISP 1 Annex 1CR* *retail investment adviser* information must be reported by *FSA* Individual Reference Number (IRN).
- 1.10.3 G For the purpose of *DISP 1.10.2R* and *DISP 1.10.2AR*, when completing the return, the *firm* should take into account the following matters.
- ...
- (3) If a *firm* reports on the amount of redress paid under *DISP 1.10.2R*(4) and *DISP 1.10.2AR*, redress should be interpreted to include an amount paid, or cost borne, by the *firm*, where a cash value can be readily identified, and should include:
    - (a) amounts paid for distress and inconvenience;
    - (b) a free transfer out to another provider which transfer would normally be paid for;

- (c) goodwill payments and goodwill gestures;
- (d) interest on delayed settlements;
- (e) waiver of an excess on an insurance policy; and
- (f) payments to put the consumer back into the position the consumer should have been in had the act or omission not occurred.

- (4) If a *firm* reports on the amount of redress paid under *DISP* 1.10.2R(4) and *DISP* 1.10.2AR, the redress should not, however, include repayments or refunds of premiums which had been taken in error (for example where a *firm* had been taking, by direct debit, twice the actual premium amount due under a policy). The refund of the overcharge would not count as redress.

...

After *DISP* 1 Annex 1BR insert the following new annex. The text is not underlined.

**Annex 1CR Illustration of the online reporting requirements, referred to in *DISP* 1.10.1R**

This annex belongs to *DISP* 1.10.1R

**COMPLAINTS AGAINST RETAIL INVESTMENT ADVISERS REPORTING / NIL RETURN DECLARATION**

1	Does the data reported in this return cover <i>complaints</i> relating to more than one adviser? If 'Yes', then list the firm reference numbers (FRNs) of all the advisers included in this return.	Yes / No
2	We wish to declare a nil return	Yes / No

**Total complaints, complaints closed, complaints upheld and total redress paid during the reporting period**

	A	B	C	D	E	F
	IRN	Name of RIA	Total number of complaints	Total number of closed complaints	Total number of complaints upheld	Total redress paid
1						
2						
3						
4						

**NOTES ON THE COMPLETION OF THIS RETURN**

**Nil returns**

If no *complaints* have been received during the reporting period or none of the *complaints* received is related to a *retail investment adviser* at is an *approved person*, the *firm* may submit a NIL RETURN by clicking on the relevant box.

...

Amend the following as shown:

**TP 1.1 Transitional Provisions table**

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
...					
<u>28</u>	<u>DISP1.10.2AR</u>	<u>R</u>	<u>Where a <i>firm</i>, which has a reporting</u>	<u>31 December 2012 to 30</u>	<u>31 December 2012</u>

		<p><u>period ending on or before 30 June 2013 submits its report to the FSA in accordance with the complaints reporting rule at DISP 1.10.2AR the number of complaints must be calculated for the period from the 31 December 2012 to the end of the firm's relevant reporting period.</u></p>	<p><u>June 2013.</u></p>	
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**PUB REF: 002612**

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