

SUMMARY OF FEEDBACK RECEIVED

Consultation title	Proposed update to the distributor-influenced funds factsheets
Date of consultation	The consultation period ran from 5 December 2011 to 30 January 2012.
Summary of the issue	<p>Distributor-influenced funds are created for the clients of a particular distributor, typically an adviser firm or network. They could be designed on a bespoke basis for the distributor or they could be set up using an existing fund that is tailored for the distributor. Fund administration and management is outsourced to other firms but the distributor may have a degree of influence over the fund (short of day-to-day asset selection).</p> <p>These products present different risks to those to which distributors and their customers are ordinarily exposed. Given this, we expect firms to put in place robust systems and controls to ensure that the use of these products is in the best interests of each client and does not simply increase complexity and costs without providing new services and good value for money.</p> <p>We published factsheets in 2008 to help firms active in this market or thinking of entering it. We have now consulted on an update to the factsheets to take account of changes to the rules as a result of the Retail Distribution Review (RDR).</p>
Summary of feedback received	<p>We received eight responses to the guidance consultation.</p> <p>The key points made were:</p> <ul style="list-style-type: none"> • we had several requests for further guidance on a number of issues: <ul style="list-style-type: none"> ○ restricted adviser use of distributor-influenced funds; ○ greater clarity on how firms can manage the conflicts of interest; ○ how the guidance relates to vertically-integrated firm structures or where distributor firms take a substantive role in fund governance; and ○ the use of distributor-influenced funds in the corporate sector, especially with regard to auto-enrolment; • it was suggested that we include examples of good and poor practice; • there were also several suggestions for smaller changes to the wording of the factsheets; • some respondents questioned whether a different term could be used rather than ‘distributor-influenced funds’; • some respondents said that distributor-influenced funds can benefit customers and the FSA should not stifle innovation; • on a similar point, some responses suggested that independent advisers should still be able to recommend distributor-influenced funds; and • some suggested that new rules might be needed to control sales in some areas (such as prohibiting non-advised sales, the requirement to have ‘living wills’ to deal with products that never achieve commercial viability and to control some of the conflicts of interest).

<p>Response to feedback received</p>	<p>We thank all respondents for taking the time to reply to the consultation.</p> <p>We do not plan to introduce significant amounts of extra text to the guidance at this stage but have made some small changes to the text on which we consulted. The finalised guidance reflects the text on which we consulted last year.</p> <p>We will give further consideration to the areas where additional material has been requested and may, in due course, consult again on further guidance. However, we note that the purpose of the guidance is to give a high-level steer to firms operating in this market rather than to provide detailed instructions. It remains the responsibility of firms to interpret the rules for their business models and to ensure that they meet expected standards.</p>
<p>Changes made to the guidance as a result of feedback received</p>	<p>We have made some small changes to the guidance where appropriate to improve the clarity of the message.</p> <p>Many respondents requested much more detailed guidance on a range of different issues that were not part of the original guidance on which we consulted. While we will give further thought to producing more detailed guidance, it is not our intention to write a more detailed set of rules for firms to follow in this market.</p> <p>It is the responsibility of firms to follow the rules within the context of their own business models. The high-level guidance contained in the updated factsheets provides a steer for firms operating in or looking to enter the distributor-influenced fund market.</p> <p>In response to some of the specific points that have been raised:</p> <ul style="list-style-type: none"> • we do not propose to change the ‘distributor-influenced funds’ name that we use. We consider that this term covers the full range of possible structures. This is not a term used in our Handbook, however, and we do not require the use of this term when firms refer to these funds; • while we do not wish to stifle innovation that may benefit retail investors, we have concerns that distributor-influenced funds may not always be in the best interests of the customers to whom they are recommended. The position set out in the factsheets with respect to independence and suitability reflects these concerns and we counsel distributor firms active in this market to pay particular attention to the needs of their customers; and • we do not propose to consult on new rules in this market at present and note that there are limits under relevant EU directives on how far new rules could be introduced in this part of the market.
<p>Full text of the guidance consulted upon can be accessed here</p>	