

Regulator Assessment: Qualifying Regulatory Provisions

Title of proposal: Insistent Clients: Good and Poor Practice

Lead regulator: FCA

Date of assessment: 23 February 2017

Commencement date: 24 February 2016

Origin: Domestic

Does this include implementation of a Cutting Red Tape review? No

Which areas of the UK will be affected? All firms delivering financial advice in the UK.

Brief outline of proposed new or amended regulatory activity

The FCA published 'Insistent Clients: good and poor practice' factsheet on 24 February 2016 which aimed to provide clarification on how firms should advise insistent clients.

The factsheet sets out examples of good and poor practice when handling an insistent client in a range of common scenarios. Insistent clients were previously rare and, in general, a client seeking advice would be unlikely to disregard it. However, with the introduction of pension freedoms in 2015, there are more clients asking advisers to carry out transactions against the advice given. The factsheet is intended to assist firms when following their usual advice processes in this new environment.

Which type of business will be affected? How many are estimated to be affected?

Firms delivering financial advice will be affected by the publication. They will only need to consider this publication when facing/advising an insistent client. The number of firms affected is inherently hard to predict. There are approximately 6000 advisory firms.

Price base year	Implementation date	Duration of policy (years)	Business Net Present Value	Net cost to business (EANDCB)	BIT score
2016	24 February 2016	10	0	0	0

Please set out the impact to business clearly with a breakdown of costs and benefits

There is a generalised need for additional clarity in the area of insistent client advice, given the recent changes to the market. The factsheet breaks this need into common areas where firms may encounter difficulties when presented with an insistent client.

‘Advising an insistent client’ – This section does not establish new standards for firms or require them to take any specific action to ensure compliance. The COBS rules (see 9.2) are specific about the steps a firm should go through when assessing suitability in the advice process. In conjunction with the Pension reforms and insistent clients statement the factsheet reiterates that the usual advice process should still be followed in insistent client cases, with clear records being made of what advice was given and why it was refused by the client.

‘Rules when advising an insistent client’ – This section highlights that insistent client cases may sometimes be driven by debt management issues and, in such instances, it would be good practice to signpost the client to the relevant agency for assistance. While this may result in an additional burden on firms, comprehensive guidance and established common practice surrounding the provision of debt counselling is already widespread and publicly available (for example CAB). As such, we consider the resulting burden on firms is unlikely to be significant or costly.

‘Suitability report/What to keep on file’ – These sections contain poor practice examples. We consider the examples are of such a nature that no reasonable firm could believe the situations highlighted would be compliant with our position. The expectations set out within the factsheet are already inherent in COBS 19.1. We do not envisage the factsheet adds any additional burden on firms. Past FCA communications have also addressed the issue of how best to advise an insistent client.

There are no additional compliance costs as a result of this publication. Firms will only refer to the publication when they encounter difficulties when presented with an insistent client and as such it will be beneficial to firms to apply the information contained in the publication.

Please provide any additional information (if required) that may assist the RPC to validate the BIT Score.

<https://www.fca.org.uk/firms/pension-reforms-insistent-clients>

<https://www.fca.org.uk/firms/pension-reforms-insistent-clients/good-poor-practice>

<https://www.citizensadvice.org.uk/debt-and-money/>

<https://www.handbook.fca.org.uk/handbook/COBS/19/?view=chapter>