

Consultation Paper

Retail Distribution Review (RDR)

Purpose and type of consultation

The purpose of this consultation is to seek input from interested parties into whether Commerce & Employment Department should review the manner in which retail financial products are distributed in Guernsey along the lines of the UK Financial Services Authority's Retail Distribution Review (RDR).

This paper summarises the changes proposed in the RDR for change and asks for your views on whether those changes should be considered for Guernsey.

Closing date: Wednesday 2nd January 2013

The Commerce and Employment (C&E) Board:

- Would like to invite and receive comments from all interested stakeholders, financial services businesses, customers, consumers and other users of Guernsey's financial services industry about the United Kingdom's Financial Services Authority's (FSA) Retail Distribution Review (RDR) and its principles and proposals may affect Guernsey and whether Guernsey should adopt a similar regime.
- Aims to work closely with stakeholders and industry to ensure Guernsey adopts the most appropriate stance in this and related matters to protect and enhance its financial services industry.

See section 14 "How to respond" for full details of how to respond to this consultation.

Contacts

Further information: <http://www.gov.gg> enter search criteria RDR

Please send your comments to:

Retail Distribution Review Consultation
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1. Background

- 1.1 The United Kingdom Financial Services Authorities Retail Distribution Review (“RDR”) is a new regulatory environment for the distribution of financial services products to retail consumers.
- 1.2 RDR will be implemented in the UK from 1 January 2013.
- 1.3 RDR is a response by the UK to long standing problems in the retail intermediary sector, especially around mis-selling.
- 1.4 RDR has 3 key elements:
- It stops financial services providers paying commissions to financial advisors and instead will require consumers to pay financial advisers directly;
 - It increases the minimum educational standard for those in industry carrying out this work;
 - It improves the transparency in the way in which firms describe their services to consumers.
- 1.5 RDR is focussed on retail consumers and as a result it is likely that the much of Guernsey’s financial services business would be unaffected if Guernsey decided to implement an RDR compliant regulatory regime.
- 1.6 The remainder of the industry may be affected in a variety of ways including:
- The majority of the clearing banks may well introduce RDR compliant regimes as part of their group wide operations. In any event the clearing banks operate in all three Islands and if Jersey and the Isle of Man implement RDR then that is likely to implement group wide practice.
 - The educational requirements in Guernsey are broadly in line with RDR as Guernsey has historically had higher educational requirements, although there may be areas where higher educational standards may be required to match the RDR standards.
 - Some businesses may prefer Guernsey to be RDR compliant as it may be important for there to be an RDR complaint regime for their ongoing operations in Guernsey. For example some of the large broking and investment advisory firms may require RDR compliance in order to provide services into the UK.
 - Some Guernsey based businesses may need to change significantly if an RDR compliant regime was implemented due to the educational requirements and changing remuneration practises. This could affect, amongst others, some IFAs.
- 1.7 Guernsey is under no obligation to adopt RDR and could choose to do nothing in relation to it or it could adopt its own version.
- 1.8 The other Crown Dependencies are also facing similar decisions to Guernsey in respect of RDR and it may be that a consistent approach is adopted across all the Crown Dependencies. Jersey has committed to introducing a regime similar to RDR for its retail sector. The Isle of Man has recently indicated that it will also introduce aspects of RDR including the educational requirements and disclosure (but not banning) of commission based fees.

- 1.9 The States of Guernsey through Commerce and Employment must consider what is in the best interests of Guernsey's economy as well as representing the interests of consumers. This consultation is designed to seek the views of all interested stakeholders and what position Guernsey should adopt to RDR or a similar regime.
- 1.10 This consultation is designed to be high level and it only refers to aspects of the FSA's RDR proposals and it is not designed to be a detailed representation of the proposals.
- 1.11 The likely next steps after this consultation are outlined in section 12.

2 UK RDR in general

2.1 RDR has 3 key elements:

- It stops the payment of Commissions to financial advisors instead requiring consumers to pay directly for advice;
- It increases the minimum educational standard for those offering these services;
- It improves the transparency in the way in which firms describe their services to consumers in terms of how much of the market the firm has reviewed in relation to its advice.

2.2 RDR is designed to cover all firms licensed as:

2.2.1 stockbrokers, investment managers and investment advisers who act for retail clients; and

2.2.2 insurance intermediaries undertaking long term insurance business and providing investment advice. Simple life assurance and general insurance are excluded.

2.3 The FSA is acting in relation to the use of intermediaries to sell retail investment products to the UK public and the fact that these intermediaries have been compensated by providers through sales-led commissions. These sales-led commission models are to be stopped from 2013.

2.4 In place of sales-led commissions the FSA would require intermediaries to charge customers fees for their services. The intention is that the intermediaries would recommend the best provider for the customer and be judged on the quality of service provided. The intention is that intermediaries would be more like professional experts who are paid for their services. There are concerns around social exclusion resulting from this proposal. It may be that it is no longer profitable for intermediaries to provide advice to the less wealthy who may then be left to make significant investment decisions on their own without advice.

2.5 The second main area is to complement this move to intermediaries being more like professional advisers and to increase the minimal educational qualification requirement for intermediaries. The present educational standard is at A-level, but would be increased to first year at University level.

- 2.6 The third area is that intermediaries would be required to be clearer as to the basis on which they give advice. An intermediary who provided “restricted” advice would need to make it clear to the customer that, in exchange for a fee, he is not providing a “whole of market” service but is only offering products from a limited number of providers. Within this “restricted” advice are “simplified advice” for using a call centre and “basic advice” using decision trees. The increased level of advice above restricted would be as an “independent” advisor where the scope of advice will be unlimited.

3 Current Guernsey position

- 3.1 Current Guernsey rules allow commissions for insurance and they have to be declared to the customer on request by the customer or on a mandatory basis for single premium, traded endowment policies and transactions that involve gearing. Commissions do not have to be declared for regular insurance savings and pensions, unless requested.
- 3.2 Commissions are allowed for investment services and disclosure is mandatory for all products although charging of fees is already widespread.
- 3.3 The Guernsey Insurance Code of Conduct requires the intermediary to ensure that the product is broadly suitable for the customer. The “customer fact find” is obligatory for investment advisers.
- 3.4 Regarding education requirements in Guernsey, Guernsey insurance intermediaries have to hold the Guernsey Insurance Certificate (GIC) although whether this will be continued in the future is presently under discussion.
- 3.5 The GFSC does not require Guernsey investment advisers to have any qualifications. However, the GFSC’s Investment Division’s minimum criteria for licensing requires the Commission to consider an individual’s education and qualifications. It is understood that most investment advisers in Guernsey do hold some qualifications.
- 3.6 There are no specific rules in terms of the extent of the market which firms should look at while providing investment advice. It is generally accepted that although firms may call themselves “independent” few would provide “whole of market” advice with most accessing only a small section of the market and providing “restricted” advice.

GENERAL COMMENTS REQUIRED ON RDR

1. General comments are invited on the overall view of a similar regime to RDR being adopted in Guernsey and whether it would be positive or not for Guernsey’s financial services sector.
2. Does your particular business need to meet UK RDR standards in order to be able to continue to serve UK clients?
3. Does your particular business intend to implement RDR compliant systems regardless of whether Guernsey chooses to implement RDR?
4. What are your views on the relative costs and benefits of RDR (or similar) in Guernsey?
5. Does industry want RDR (or similar) to be adopted in Guernsey?

6. Do consumers of financial services want RDR (or similar) to be adopted in Guernsey?
7. What do you think would be the impact on Guernsey if it was decided to do nothing in relation to RDR?
8. Are there any elements of RDR which should / should not be adopted in Guernsey?

4 RDR Proposal - Increased Professional Standards for Investment Employees

4.1 The FSA expects the new professional requirements will improve the level of consumer confidence and build trust in the retail investment sector. This will be achieved through four main strands and retail investment advisers will need to:

- 4.1.1 Subscribe to a code of ethics;
- 4.1.2 Hold an appropriate qualification;
- 4.1.3 Carry out at least 35 hours of continuing professional development (CPD) a year.
- 4.1.4 Hold a Statement of Professional Standing (SPS) from an accredited body.

9. Do you think it is appropriate for Guernsey to seek to raise the standards of qualification requirements for investment employees?
10. If yes, what level should standards be raised to?
11. Do you have any other proposals which Guernsey could adopt which could address this issue?

5 RDR proposal – Remuneration for Investment Advice

- 5.1 A key objective of RDR is to address the potential for remuneration to distort client outcomes and to help ensure that the client is aware of all associated fees and charges.
- 5.2 Currently those who give advice are remunerated different amounts of money depending on which particular product provider and product they recommend. Therefore there is the potential conflict of interest that could be negative for a client.
- 5.3 RDR proposes new rules which will make the process for remuneration more transparent and consumers will know what they are paying for.

- 5.4 The new rules would increase consumer confidence that the advice they receive is not biased by commission as the adviser's remuneration will be agreed between the adviser and consumer instead of being determined by the product provider.
- 5.5 The new adviser remuneration rules mean that all firms that give retail investment advice (including for example wealth managers, stockbrokers, banks, independent financial advisors) will have to:
- 5.5.1 Set their own charging structure which is based on the level of service they provide;
 - 5.5.2 Disclose charges to consumers upfront, using some form of price list or tariff; and
 - 5.5.3 Deliver an ongoing service when an ongoing fee is levied, unless the product is a regular payment one.

12. Do you consider the RDR proposals to be reasonable in relation to changes regarding remuneration?

13. What alternatives would you suggest are more appropriate for Guernsey?

6 RDR proposal – Independent and Restricted Advice

- 6.1 The FSA has broken the advice down into 2 main categories, independent and restricted.
- 6.2 The FSA's new independent standard of advice is aimed at ensuring that advice is genuinely independent, free from restrictions or bias and which reviews the whole market comprehensively and considers a broad range of products. Such advice needs to:
- 6.2.1 Have considered a broad range of products;
 - 6.2.2 Provide unbiased and unrestricted advice based on a comprehensive and fair analysis of the relevant market; and
 - 6.2.3 Inform its client before providing advice that it provides independent advice.
- 6.3 Other less comprehensive advice can still be provided but the advisor must make it clear to the client that the advice is restricted. Firms must provide in writing and orally, before providing advice that they provide restricted advice and explain the nature of the restriction.

14. Do you consider the two categories of advice and suggested ways that they are communicated to be appropriate for use in Guernsey?

15. If not what classifications could be adopted in Guernsey?

7 Other RDR proposals

7.1 The RDR proposals also include higher financial resource requirements for all personal investment firms.

7.2 It is proposed that all personal investment firms would be required to hold capital resources which are the higher of:

7.2.1 Twenty thousand pounds; or

7.2.2 Three months of their annual fixed expenditure.

8 Do you consider there is a need to require minimum financial requirements in Guernsey?

9 If yes, what levels would you propose?

10 Next steps

- 10.1 Responses will be collected and a summary be made public.
- 10.2 Responses will be considered by Commerce and Employment to inform a policy decision on RDR or similar.
- 10.3 If it is concluded that policy changes are required then Commerce and Employment will work with the GFSC on how these policy changes might be implemented.
- 10.4 It is probable that any measures which may be introduced under a policy changes could be adopted in Guernsey without any primary legislative changes. Instead, Commission based changes in the rules and regulations should be sufficient.

11. Summary of Consultation questions

Respondents are invited to comment generally on the RDR proposals, specific questions which appeared in the main text are repeated and listed below.

General Comments on RDR in Guernsey

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RDR Proposal - Increased Professional Standards for Investment Employees

9. Do you think it is appropriate for Guernsey to seek to raise the standards of qualification requirements for investment employees?
10. If yes, what level should standards be raised to?
11. Do you have any other proposals which Guernsey could adopt which could address this issue?

RDR proposal – Remuneration for Investment Advice

12. Do you consider the RDR proposals to be reasonable in relation to changes regarding remuneration?
13. What alternatives would you suggest are more appropriate for Guernsey?

RDR proposal – Independent and Restricted Advice

14. Do you consider the two categories of advice and suggested ways that they are communicated to be appropriate for use in Guernsey?
15. If not what classifications could be adopted in Guernsey?

Other RDR proposals

16. Do you consider there is a need to require minimum financial requirements in Guernsey?
17. If yes, what levels would you propose?

12. How to respond:

PLEASE SEND COMMENTS TO

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Disclaimer

**Please note that consultation responses may be made public.*

(sent to other interested parties on request, quoted in a published report, reported in the media, published on www.gov.gg, listed on a consultation summary etc.)

**Please clearly indicate (by using the tick boxes) in your response how the Department should treat your response, the options available include:*

I agree that my comments may be made public and attributed to me

I agree that my comments may be made public but not attributed (i.e. anonymous)

I don't want my comments made public

Name:	<hr/> <hr/>
Address:	<hr/> <hr/> <hr/> <hr/>