



21 September 2010

Our ref: ICAEW Rep 95/10

Your ref: CP10/14

Jonathan Bundy
Professional Standards Policy Team
Financial Services Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

Dear Mr Bundy

Consultation Paper 10/14 *Delivering the RDR: Professionalism, including its applicability to pure protection advice, with feedback to CP09/18 and CP09/31.*

We are pleased to respond to your request for comments on CP10/14 *Delivering the RDR: Professionalism, including its applicability to pure protection advice, with feedback to CP09/18 and CP09/31.*

Please contact me should you wish to discuss any of the points raised in the attached response.

Yours sincerely

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ICAEW REPRESENTATION

CP10/14 Delivering the RDR: Professionalism, including its applicability to pure protection advice, with feedback to CP09/18 and CP09/31

Memorandum of comment submitted in September 2010 by ICAEW in response to the Financial Services Authority's consultation paper CP10/14 published in June 2010.

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INTRODUCTION

1. ICAEW welcome the opportunity to comment on the consultation paper CP 10/14: *Delivering the RDR: Professionalism, including its applicability to pure protection advice, with feedback to CP09/18 and CP09/31* published by the Financial Services Authority.

WHO WE ARE

2. ICAEW operates under a Royal Charter, working in the public interest. Its regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the Financial Reporting Council. As a world leading professional accountancy body, we provide leadership and practical support to over 134,000 members in more than 160 countries, working with governments, regulators and industry in order to ensure the highest standards are maintained. We are a founding member of the Global Accounting Alliance with over 775,000 members worldwide.
3. Our members provide financial knowledge and guidance based on the highest technical and ethical standards. They are trained to challenge people and organisations to think and act differently, to provide clarity and rigour, and so help create and sustain prosperity. We ensure these skills are constantly developed, recognised and valued.
4. The ICAEW Financial Services Faculty was established in 2007 to become a world class centre for thought leadership on issues facing the financial services industry, acting in the public interest and free from vested interests. It draws together professionals from across the financial services sector and from the 25,000 ICAEW members specialising in the sector.

MAJOR POINTS

5. ICAEW welcomes the proposals to raise standards of professionalism in the retail advice and investments sector and, in principle, support the concept of the independent verification of professional standards for individual advisers in the retail advice and investments market. We believe the professionalisation of the sector has the potential to raise levels of confidence in the retail investments sector, which in turn should help to close the savings gap.
6. In context of the proposals outlined in this consultation, it is important to bear in mind that professionalism is complementary to statutory regulation and facilitates compliance with regulatory principles and rules. At the heart of the concept and practice of a profession and professionalism, is the application of professional judgement through the controlling mechanism of professional ethics. Professionalism needs to be understood in terms of a state of mind, and a profession and professionalism are qualitatively different to regulatory compliance and more far reaching.
7. The retail advice and investments sector is diverse and performance across the sector has been mixed. The varied needs of different customer segments require different business models. We believe the retail advice and investment market generally falls into two distinct types of model, each of which has evolved to fulfil the diverse needs of the marketplace. Broadly speaking, we describe the two models as: the professional advice model; and the advised sales model. The professional advice model tends to serve the needs of clients with more complex needs and is better suited to a regulatory approach that facilitates the application of professional discretion within a principles based, professional oversight model.
8. ICAEW believe the established professional bodies have the potential to play an enhanced role in helping to raise professional standards in the retail advice and investment sector. To do this, regulation needs to be consistent with the governance of

professional standards within the framework of a principles based, professional oversight model.

9. We favour an evolutionary approach to the better regulation of markets. In the immediate term, there may be practical advantages associated with the internal model. We believe, however, that in the medium term the oversight of professional standards should be migrated to the governance of an external model, under the oversight of an independent Professional Standards Board, as was broadly recommended by the FSA's Professionalism Group, chaired by Michael Foot in autumn 2008. ICAEW believe the proposals to create 'accredited bodies' in preference to 'recognised professional bodies' may be perceived as a retrograde development.
10. To be effective, greater clarity is required as regards the respective roles and inter-relationships between accredited bodies, firms and advisors and the accreditation and governance of professional standards for individual advisors in the retail advice and investments sector. The professional and verifying bodies have an important role to play in developing a body of professional expertise and nurturing higher ethical standards in the sector, which should reduce the probability of breaches of regulatory compliance. It is, however, the responsibility of senior management to ensure that professionalism exists at all levels within their firm, and that individual advisors are delivering professional advice that is consistent with the long-term best interest of individual customers on an ongoing basis.
11. As outlined in this consultation, the scope and remit of accredited bodies may not enable the market to deliver sufficiently differentiated professional governance models to fully address the diverse nature of the sector. In their current format, the proposals may lead to the commoditisation of the governance of professional standards and could tend to drive business to the lowest cost provider, thus limiting choice and creating barriers to entry. We believe the nurturing and governance of professional standards in the sector will be better served if professional bodies have greater scope to apply their established principles based, professional governance models. The adoption of a more prescriptive, rules-based model across the sector is counter intuitive for the development of a credible, financial advice and investment profession.
12. We do not believe the application of an hours based approach to CPD is consistent with professionalism as the measure of professional standards needs to be based on the quality of outcomes, not the volume of inputs.
13. To achieve the policy objective of restoring confidence in the retail advice and investments sector and to raise levels of consumer engagement, the general public needs to be made fully aware of the work that is being undertaken to raise standards of professionalism and benefits that are intended to flow from the regulatory changes.

RESPONSES TO SPECIFIC QUESTIONS

Q1: Do you have any views on the possible equality and diversity impact of our CPD draft Handbook text?

14. Professional standards need to be applied on a consistent basis across the retail advice and investments sector. Advisors need to be able to demonstrate that they have acquired and are maintaining the necessary level of professional competence and ethical behaviours to meet the needs of their particular role on an ongoing basis.
15. CPD requirements should be outcome focused to reflect the fact that different roles require a different mix of knowledge and skills. We do not believe that implementing a regime based around hours will achieve this objective. The orientation should be focussed on measuring outputs rather than inputs, perhaps incorporating a minimum

number of relevant hours of structured CPD. We can see no logic in the proposal that part-time advisers by definition need less CPD than their full time counterparts and the proposal is a consequence of input based focus.

16. We believe it would be beneficial for accredited bodies to work closely with firms to establish what CPD is required to fulfil the requirements of a particular role. This will greatly assist accredited bodies to provide meaningful independent verification that an individual advisor has acquired and is maintaining an appropriate level of technical competence and professionalism for a particular role on an ongoing basis.

Q2: Do you have any views on the possible equality and diversity impact of our draft Handbook text?

17. We have no further comments to add.

Q3: Is the proposed content of the Statement of Professional Standing (SPS) sufficiently clear and unambiguous to be:

- a) Effective in providing evidence to firms that their advisers have met the new professional standards; and
- b) Helpful to consumers?

18. In general terms, ICAEW support the view that independent verification that an advisor has acquired and is maintaining a minimum level of professionalism can only help to improve levels of confidence in the retail advice and investments sector. We do not, however, believe an annual statement of itself will necessarily have any significant effect. To be effective, the general public needs to clearly understand what the proposed certification represents. The FSA and accredited and professional bodies will need to work together to develop a high profile, public information campaign moving forward. If this is not done, introducing a Statement of Professional Standing may simply prove to be an expensive bureaucratic exercise which delivers little in terms of raising levels consumer trust and engagement. Consumers need communications that explain in clear, simple terms that there is real substance behind this initiative. Without a deep level insight into consumers' mindset ICAEW is not able to offer any meaningful comment on the usefulness or, otherwise, of the term 'Statement of Professional Standing'. Intuitively, however, we believe the term 'Practising Certificate' represents a more appropriate and meaningful descriptor in the circumstances.
19. With reference to the proposals contained in this consultation, there are many aspects which are unclear.
20. The draft handbook text (2.2.20A & guidance) refers to checking CPD records, but paragraph 3.16 of the consultation refers to advisors adherence with ethical matters. This can only be confirmation and it must be made very clear that accredited bodies will not be able to verify this statement as they may be able to do in respect of CPD. It is difficult to see how accredited bodies will be in a position to check that an advisor is achieving the required professional standards.
21. There is a significant mismatch between the apparent role of the accredited body as set out in the consultation paper and as set out in the draft handbook text at 2.1.27. The latter confusingly refers to the relationship between the firms and the accredited body, whereas it will be between with the individual adviser. The steps set out in 2.1.27 cover the firm's assessment of the individual as competent, which is not really a matter that the accredited body will be in a position to be able to fully comment on. There is also a reference to the time period that an appropriate qualification must be obtained. It would appear that an accredited body should only be concerned with CPD requirements after the appropriate qualification has been acquired.

22. It is unclear why the certificate requires an annual declaration that CPD has been undertaken in the preceding 6 months.
23. Paragraph 3.17 refers to publishing data on our own register of numbers. It is unclear what this is and there does not appear to be a requirement in the handbook text to have a register. This could be a major cost that is not covered in the cost-benefit analysis.
24. For the proposals to be effective there needs to be greater clarity on the respective roles and interrelationship of firms, accredited bodies and advisors in respect of the verification and governance of the professional standards of individual advisors and what exactly an accredited body will be expected to do. It would seem that part of the verification work of accredited bodies will be to verify that CPD is relevant and sufficient for an individual advisor's particular role. There should therefore be a requirement for a firm to cooperate with accredited bodies.

Q4: Can you provide evidence to show how much it will cost your firm to submit these professional standards data to the FSA? Do you have a view on the merits of the alternative approach suggested?

25. As a professional institute we are not in a position to comment.

Q5: What are your views on the most effective way for the FSA to obtain systematic individual transaction data linked to the individual adviser? Do you have a view on the merits of the alternative approach suggested?

26. As a professional institute we are not best placed to comment.

Q6: Do you have any information that would materially affect the findings of this cost-benefit analysis? If so, please attach with your response.

27. We cannot see why accredited bodies need to have an annual audit and believe that every three years should be sufficient. There are also additional costs involved in undertaking a consultation in respect of each time the FSA wants to add a body to the approved list of accredited bodies. In respect of the above two points, we are not convinced that any real benefits would be derived and cannot see that the additional costs incurred would be justifiable in the circumstances.
28. ICAEW would be happy to discuss the proposed criteria for accredited bodies in more detail in context of our experience as a long established professional institute.

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