

**RETAIL DISTRIBUTION REVIEW (ADVISER CHARGING NO 2)
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); and
 - (c) section 157(1) (Guidance); and
 - (2) the other 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 Conduct of Business sourcebook (COBS) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Retail Distribution Review (Adviser Charging No 2) Instrument 2011.

By order of the Board
28 April 2011

Annex

Amendments to the Conduct of Business sourcebook (COBS)

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

6.1A Adviser charging and remuneration

...

Ongoing payment of adviser charges

6.1A.22 R A *firm* must not use an *adviser charge* which is structured to be payable by the *retail client* over a period of time unless (1) or (2) applies:

- (1) the *adviser charge* is in respect of an ongoing service for the provision of *personal recommendations* or related services and the *firm* has disclosed that service along with the *adviser charge*; or
- (2) the *adviser charge* relates to a *retail investment product* ~~to~~ for which ~~the *retail client* has contracted to contribute to regularly over a period of time~~ an instruction from the *retail client* for regular payments is in place and the *firm* has disclosed that no ongoing *personal recommendations* or service will be provided.

Disclosure of total adviser charges payable

...

6.1A.24A G If the price of the *retail investment product* may vary as a result of fluctuations in the financial markets and the *adviser charge* is expressed as a percentage of that price, a *firm* need not disclose to the *retail client* the total *adviser charge* payable to the *firm* or any of its *associates* by the *retail client* until after execution of the transaction, provided it then does so promptly.

6.1A.25 ...

6.1A.26 G To comply with the *rule* on disclosure of total *adviser charges* (COBS 6.1A.24R) and the *fair, clear and not misleading rule*, a *firm's* disclosure of the total *adviser charge* should:

...

- (4) if an ongoing *adviser charge* is expressed as a percentage of funds under management, clearly reflect in the disclosure ~~how that the *adviser charge* may increase as the fund grows, for example by illustrating the *adviser charge* assuming a fund growth rate which is consistent with an *intermediate rate of return*~~; and

...

...

6.1C Consultancy charging and remuneration

...

6.1C.19 G To comply with the *rule* on disclosure of total adviser charges (COBS 6.1C.18R) and the *fair, clear and not misleading rule*, a firm’s disclosure of the total *consultancy charge* should:

...

- (3) if an ongoing *consultancy charge* is expressed as a percentage of funds under management, clearly reflect in the disclosure how that *consultancy charge* may increase as the fund grows, ~~for example by illustrating the *consultancy charge* assuming a fund growth rate which is consistent with an *intermediate rate of return*.~~

...

6.2A Describing advice services

...

6.2A.6 R ...

- (3) If a firm provides *restricted advice*, a ~~firm~~ its disclosure must ~~include in its disclosure an explanation about whether the advice is limited to retail investment products from a single company, a single group of companies or a limited number of companies~~ explain the nature of the restriction.

...

...

6 Annex 1G Services and costs disclosure document described in COBS 6.3.7G(1)

...



about our services and costs



[Note 2]]

[Note 1]
 [Note 3]
 [123 Any Street
 Some Town
 ST21 7QB]

...

2. Which service will we provide you with? [Note 4] [Note 5]

- Independent advice – We will advise and make a recommendation for you after we have assessed your needs. Our recommendation will be based on a comprehensive and fair analysis of the market. [Note 6]
- Restricted advice – We will advise and make a recommendation for you after we have assessed your needs, but we only offer advice on limited types of products, or products from one company or a limited number of companies. [Note 7].
- No advice – You will not receive advice or a recommendation from us. We may ask some questions to narrow down the selection of products that we will provide details on. You will then need to make your own choice about how to proceed.

...

Note 7 – if the *firm* selects this box, it will be offering:

- (a) products from a limited number of companies; or
- (b) products of a single company or single group of companies; or
- (c) its own products (e.g. where the *firm* is a *product provider* offering only its own products, or is part of a *product provider* offering only the products sold under that part’s trading name); or
- (d) basic advice on stakeholder products; or
- (e) limited types of products; or
- (f) limited types of products from a single company or from a limited number of companies.

The *firm* should replace the preceding text with the relevant text as set out below. If the *firm* does not select this box, then no amendments should be made to the preceding text.

(a)	“Restricted advice – We will advise and make a recommendation for you after we have assessed your needs. We [can] [Note a] only offer products from a limited number of companies. You may ask us for a list of the companies whose products we offer.” [Note b].
(b)	“Restricted advice – We will advise and make a recommendation for you after we have assessed your needs. We [can] [Note a] only offer products from [name of provider].” or if the provider has only one product the <i>firm</i> should amend the text to the singular, for example “We [can] [Note a] only offer a pension from [name of provider].”
(c)	“Restricted advice – <u>We only offer our own products.</u> We will advise and make a recommendation for you after we have assessed your needs. We only offer our own products. <u>You may ask us for a list of the products we offer advice on.</u> [Note e]
(d)	“Restricted advice – We will provide basic advice on a limited range of stakeholder products and in order to do this we will ask some questions about your income, savings and other circumstances, but we will not conduct a full assessment of your needs or offer advice on whether a non-stakeholder product may be more suitable.” [Note c]: “We [can] [Note a] offer products from a single stakeholder product provider.”; or “We [can] [Note a] offer products from a limited number of stakeholder product providers You may ask us for a list of the companies whose products we offer.” [Note b]; or “We only offer our own stakeholder products.”
(e)	“Restricted advice – We will advise and make a recommendation for you after we have assessed your needs. <u>We only offer advice on limited types of products. You may ask us for a list of the products we offer.</u> [Note b]
(f)	“Restricted advice – We will advise and make a recommendation for you after we have assessed your needs. <u>We offer advice on limited types of products (which we offer from [a single company] [from a limited number of companies] [Note d]). You may ask us for a list of the companies and products we offer advice on.</u> [Note b]

[Note a] – insert “can” if the *firm*’s range of products is determined by any contractual obligation.

[Note b] – the list of products will be the range of *retail investment products* that is appropriate having regard to the services that the *firm* is providing, or may provide, to the *client*. For services provided in relation to non-investment insurance contracts, this is the list required by *ICOBS 4.1.6R(2)*.

[Note c] – the *firm* should insert one of the three statements, whichever is relevant.

[Note d] – the *firm* should select this option if it does not only offer its own products. The firm should insert one of the two statements, whichever is relevant.

[Note e] – the *firm* should only select this option if it only offers its own products.

...

6 Annex 2 Combined initial disclosure document described in COBS 6.3, ICOBS 4.5, MCOB 4.4.1R(1) and MCOB 4.10.2R(1)

....



about our services and costs

[Note 1]



[Note 2]

[Note 3]
[123 Any Street
Some Town
ST21 7QB]

...

3 Which service will we provide you with? [Note 4][Note 6]

Investment

- Independent advice – We will advise and make a recommendation for you after we have assessed your needs. Our recommendation will be based on a comprehensive and fair analysis of the market. [Note A]
- Restricted advice – We will advise and make a recommendation for you after we have assessed your needs, but we only offer advice on limited types of products, or products from one company or a limited number of companies. [Note B].
- No advice - You will not receive advice or a recommendation from us. We may ask some questions to narrow down the selection of products that we will provide details on. You will then need to make your own choice about how to proceed.

...

Note B– if the *firm* selects this box, it will be offering:

- a) products from a limited number of companies; or
- b) products of a single company or single group of companies; or
- c) its own products (e.g. where the *firm* is a *product provider* offering only its own products, or is part of a *product provider* offering only the products sold under that part’s trading name); or
- d) basic advice on stakeholder products; or
- e) limited types of products; or

f) limited types of products from a single company or from a limited number of companies.

The *firm* should replace the preceding text with the relevant text as set out below. If the *firm* does not select this box, then no amendments should be made to the preceding text.

(a)	“Restricted advice – We will advise and make a recommendation for you after we have assessed your needs. We [can] [Note a] only offer products from a limited number of companies. You may ask us for a list of the companies whose products we offer.” [Note b] .
(b)	“Restricted advice – We will advise and make a recommendation for you after we have assessed your needs. We [can] [Note a] only offer products from [name of provider].” or if the provider has only one product the <i>firm</i> should amend the text to the singular, for example “We [can] [Note a] only offer a pension from [name of provider].”
(c)	“Restricted advice – We only offer our own products. We will advise and make a recommendation for you after we have assessed your needs. We only offer our own products. You may ask us for a list of the products we offer advice on.” [Note e]
(d)	“Restricted advice – We will provide basic advice on a limited range of stakeholder products and in order to do this we will ask some questions about your income, savings and other circumstances, but we will not conduct a full assessment of your needs or offer advice on whether a non-stakeholder product may be more suitable.” [Note c]: “We [can] [Note a] offer products from a single stakeholder product provider.”; or “We [can] [Note a] offer products from a limited number of stakeholder product providers You may ask us for a list of the companies whose products we offer.” [Note b] ; or “We only offer our own stakeholder products.”
(e)	“ <u>Restricted advice – We will advise and make a recommendation for you after we have assessed your needs. We only offer advice on limited types of products. You may ask us for a list of the products we offer.</u> ” [Note b]
(f)	“ <u>Restricted advice – We will advise and make a recommendation for you after we have assessed your needs. We offer advice on limited types of products (which we offer from [a single company] [from a limited number of companies] [Note d]). You may ask us for a list of the companies and products we offer advice on.</u> ” [Note b]

[Note a] – insert “can” if the *firm*’s range of products is determined by any contractual obligation.

[Note b] – the list of products will be the range of *retail investment products* that is appropriate having regard to the services that the firm is providing, or may provide, to the *client*. For services provided in relation to non-investment insurance contracts, this is the list required by *ICOBS 4.1.6R(2)*.

[Note c] – the *firm* should insert one of the three statements, whichever is relevant.

[Note d] – the *firm* should select this option if it does not only offer its own products. The firm should insert one of the two statements, whichever is relevant.

[Note e] – the *firm* should only select this option if it only offers its own products.