

# Handbook development



*Special edition*  
December 2002

## **Retail market consultation: a 'road map' to future publications**

### **What's in this newsletter?**

We are developing new policy in areas that directly affect the provision of products and services in the retail market. So we will be issuing a significant amount of consultation material over the coming months. The purpose of this special edition newsletter is to help firms and consumer representatives to identify the consultation papers most relevant to them. It includes:

- ◆ a short explanation of the content of the consultation material;
- ◆ a provisional timetable for publication of the key papers that affect the retail market (see pages 7-9); and
- ◆ a 'CP road map' to help you identify which papers will be most relevant to you (see pages 10-11).

### **Who needs to read this?**

You need to read this guide if: your business involves sales and/or advice to retail consumers of investment products (including life products), mortgages or general insurance; or you represent consumer interests in these markets. For example, it is relevant to you if you are a mortgage or general insurance broker, an adviser, a salesman or an administrator for any of these products.

### **New to all this and don't know where to start?**

If you are not already familiar with our publications, you may want to turn straight to the 'getting started' information on pages 5-6 which gives a short explanation of some of the key terms used in this guide.

## The need for change

We need to make changes to how investment, mortgage and general insurance products are provided for three main reasons:

- ◆ to reform and update important regulatory requirements to help achieve a fair deal for consumers<sup>1</sup> (for example, to improve the information provided to consumers);
- ◆ to implement new European directive requirements that affect the way a firm deals with its customers; and
- ◆ the government has asked us to become responsible for regulating mortgages and general insurance sales from 2004.

We recognise that many firms operate across more than one of the three sectors covered in this guide (investments, mortgages and general insurance). And consumers entering the market for financial products will not always distinguish between the sectors. The changes we propose seek to minimise the risk of consumer detriment irrespective of sector. So we are looking for ways of drawing together common threads across these sectors (for example by proposing the introduction of FSA ‘branding’ across all sectors for ‘key facts’ provided to consumers). And in making these changes, we are mindful of the need to ensure our proposals are proportionate, and that we continue to facilitate innovation and competition in these markets.

## How do our retail market Consultation Papers fit together?

This guide is designed to explain how the following Consultation Papers (CPs) fit together. Some of the titles listed below are working titles and may change slightly. Therefore, as you will see, we have temporarily assigned each CP or Discussion Paper (DP) a Retail Market (RM) number, and this is the number that we will use when referring to it before publication. After that, when the CP (or DP) is assigned a CP (or DP) number at publication, the RM number will be dropped.

However, not all of these publications will necessarily be relevant to you; the table on pages 7-9 and the CP road map on pages 10-11 are designed to help you identify which are most likely to be relevant to you.

◆ <b>CP157:</b> Examination Framework for Retail Financial Services (Investment Advice Strand 1) (November 2002)	◆ <b>CP146:</b> The FSA’s approach to regulating mortgage sales (August 2002)
◆ <b>RM1:</b> CP Reform of polarisation regime: feedback statement on CP121 and consultation on draft rules	◆ <b>CP160:</b> Insurance selling and administration: the FSA’s high-level approach
◆ <b>DP19:</b> Options for regulating the sale of “simplified investment products”	◆ <b>RM5:</b> CP Threshold Conditions for mortgage firms and general insurance intermediaries
◆ <b>CP159:</b> Appointed representative regime – extending the current regime	◆ <b>RM6:</b> CP Regulatory reporting (insurance, mortgages and intermediaries advising on and/or arranging investment products)
◆ <b>RM2:</b> CP Implementing the menu approach to commission disclosure	◆ <b>RM7:</b> CP Implementation of the Distance Marketing Directive
◆ <b>RM3:</b> CP Informing consumers: product information at the point of sale	◆ <b>RM8:</b> DP Options for the structure of with-profits policies
◆ <b>RM4:</b> CP Information after the point of sale	

1 As set out in our strategic aims and outcomes published in the FSA’s Plan & Budget 2002/03 (January 2002).

## What is the timetable for all this change?

The table on pages 7-9 indicates the expected publication times of these papers. As we are required by law to consult on all proposed changes to the regime, and we need to allow firms time to prepare for any changes, there is a delay between initial DPs or CPs being published and new requirements being implemented. So, many of the changes referred to in this newsletter will not come into effect until 2004. We hope there will then be a period that will allow these major changes to settle down – although this may not be entirely within our control.

## Which publications are relevant to the sale of investment products (including investment based life products)?

There are five key strands of work that are relevant to firms that operate in the investment products market:

- ◆ **training and competence:** DP9<sup>2</sup> set out the case for a new examination structure for the financial services industry. CP157<sup>3</sup> followed up on this and proposed a new examination structure that provided a clear professional ladder;
- ◆ **advice and selling requirements:** CP121<sup>4</sup> laid out proposals for liberalising the existing polarisation arrangements to allow multi-tying for distributor firms and unrestricted product adoption. It also considered options for a two-tiered advice regime - issues which are particularly relevant as we consider the potential options for a risk-based selling regime for the simplified suite of products proposed in the Sandler report<sup>5</sup>. Publications RM1 and DP19 will set out current thinking on these issues;
- ◆ **the appointed representative regime:** we have reviewed current arrangements in light of the polarisation work and our new regulatory responsibilities in the mortgage and insurance markets. Our proposals will be set out in CP159;
- ◆ **disclosures to consumers:** we are reviewing the range and type of information that we require firms to provide to consumers. This work is focussing on disclosures made at three different stages of the advice and sales process:
  - ◆ **initial disclosures** made as part of the initial contact with the customer. Our proposals covering the nature of the service (e.g. whether or not advice is being given) will be set out in RM1. RM2 will cover our proposals for implementing the menu approach to commission disclosure (taking account of feedback on the commission disclosure proposals first set out in CP121<sup>4</sup>);
  - ◆ **product information** (i.e. a revised version of the Key Features Documents) – this will include information specific to the product and (where advice is given) the reasons why the product is the most suitable. Our proposals will be set out in RM3; and
  - ◆ **information after the point of sale** – this will propose new requirements to provide information on product performance through the life of the product. Our proposals will be set out in RM4.

These disclosure initiatives will also take account of our work on statutory status and regulatory information disclosures covered in CP138<sup>6</sup>; and.

2 Examination Review (December 2001).

3 Examination Framework for Retail Financial Services (Investment Advice Strand 1) (November 2002).

4 Reforming Polarisation: Making the market work for consumers (January 2002).

5 Medium & Long-Term Savings in the UK – A Review (HMT July 2002).

6 Disclosure of status under the Financial Services and Markets Act 2000 and use of the FSA logo (May 2002).

- ◆ **regulatory reporting:** RM6 will set out our proposals for data collection from firms undertaking the new regulated activities in the mortgage and general insurance markets. It will also review and integrate the existing reporting requirements for intermediaries advising on and/or arranging investment products.

### Which publications are relevant to the sale of mortgages and general insurance?

The government has decided that we will become responsible for regulating mortgage lending and the sale and administration of mortgages, general insurance and non-investment life insurance. These new regulatory arrangements will come into effect in October 2004. We are therefore in the process of developing our proposed new regimes for mortgage and general insurance products. The key elements of this process are:

- ◆ **mortgage regulation:** CP146<sup>7</sup> set out our proposals for regulating mortgage sales and explained the thinking behind our proposed approach. This CP contained extensive material and we gave an overview of the key aspects of the consultation in the CP146 Newsletter. In RM5 we will set out our proposals on the wider application to mortgage firms of the FSA's requirements (including, for example, financial resource requirements and the high level conditions for authorisation);
- ◆ **general insurance:** CP160 will set out our proposals for regulating insurance sales and administration (e.g. claims handling) and will explain the thinking behind our proposed approach. It will also explain how we propose to implement key aspects of the Insurance Mediation Directive. Again, RM5 will set out our proposals on the wider application to general insurance intermediaries of the FSA's requirements (including, for example, financial resource requirements and the high level conditions for authorisation);
- ◆ **the appointed representative regime:** firms may choose to act as a representative of an authorised firm, rather than being directly authorised by us, provided both parties meet certain conditions. This is referred to as the 'appointed representative regime'. In CP159 our consultation proposals explain how the system has worked for investment intermediaries and how we propose to amend the regime to cover mortgage and general insurance intermediaries (including firms which do a mix of different types of business);
- ◆ **regulatory reporting:** to supervise the many thousands of firms in these markets, we will need to regularly collect certain data in a standard format. Our proposals for data collection and how we plan to use that data in our ongoing supervision will be in RM6; and
- ◆ **consultation on fees:** the first of several CPs will be published in the first half of 2003.

### What about the Distance Marketing Directive (DMD)?

This recently adopted European directive (2002/65/EC) applies to the distance selling of financial services. Broadly, this includes transactions not done face-to-face. It will apply certain common conduct of business requirements<sup>8</sup> to a range of financial services including banking, mortgages, insurance, personal pensions and investments. Any rules we make to implement it must be in force by 9 October 2004. Where it is not possible to deal with them through other consultations (relevant aspects will, for example, be covered in the sector specific CPs for mortgages and for general insurance and non-investment life insurance), we will consult on them in RM7.

---

<sup>7</sup> The FSA's approach to regulating mortgage sales (August 2002).

<sup>8</sup> E.g. information to be provided to the consumer, specified 'cooling off' periods during which a consumer has the right to withdraw from a contract.

## Getting started

### *Background reading*

In March 2002, we published a guide to mortgage and general insurance regulation. This explained: the scope of what we expect to regulate; our initial role; how we will fulfil that role; and when it will all happen. It also provided a list of further background publications that you might find useful.

So, if you operate in these markets and have not previously had any contact with us, we would advise you to read that guide before reviewing Consultation Papers (CPs). And even if you do not operate in these particular markets, you may still find the guide a useful starting point if you are not familiar with our publications.

These publications are available on our website at [www.fsa.gov.uk](http://www.fsa.gov.uk). Printed copies may be ordered by calling 0845 608 2372.

### *Enquiries*

For enquiries on mortgage regulation, you can email us at [mortgages@fsa.gov.uk](mailto:mortgages@fsa.gov.uk)

For enquiries on general insurance regulation, you can email us at [general.insurance@fsa.gov.uk](mailto:general.insurance@fsa.gov.uk)

For general enquiries you can email us on [jane.blackburn@fsa.gov.uk](mailto:jane.blackburn@fsa.gov.uk)

### *Tips for dealing with CPs*

We recognise that the volume of consultation material identified in this newsletter is daunting – especially if you are new to FSA regulation. However, you may find the following pointers helpful in reducing this burden:

- ♦ each CP is accompanied by a newsletter that identifies who the material is relevant to (including whether or not it is relevant to consumers) and summarises the key proposals within the paper. It will include details of how to order a hard copy of the CP and who to send your responses to (this can be done in writing or by e-mail);
- ♦ the executive summary (usually Chapter 1) of a CP is aimed at the busy reader. It provides a self-contained description of the main messages of the paper and includes the background, the purpose of the paper, a brief summary of the key proposals, and an indication of the next steps. There will also be a text box which explains whether the material will be of interest to retail consumers;
- ♦ the main body of the CP will then cover in more detail the background, analysis of the issues, discussion of options, the proposals and a cost benefit analysis in support of those proposals. Where draft rules are included, they will usually be in an Annex; and
- ♦ to help you focus your response, we include specific questions on key aspects of our proposals.

## Terminology used in this guide

### *Who are the FSA?*

The Financial Services Authority (FSA) is the independent regulator of the financial services industry. Our powers are given under the Financial Services and Markets Act 2000 (the FSMA).

### *Why consult?*

We are required by law to consult publicly on any new rules and guidance we propose. We do this by publishing the proposals in a series of Consultation Papers (CPs). We also talk to trade bodies, advisory groups and other relevant parties to help us refine our proposals. This is a rigorous process that allows all interested parties to comment on proposed regulatory requirements before they are finalised. Our experience is that this consultation process helps us to achieve a more proportionate regime.

***What is the difference between a DP and a CP?***

Discussion Papers (DPs) are used to canvass initial opinions on an issue (e.g. the advice regime to accompany Sandler products). Where this leads to proposed changes to our requirements, a DP will always be followed up with a Consultation Paper (CP) setting out firm proposals. A newsletter that explains the purpose and content will accompany both DPs and CPs.

***Why do some CPs include draft rules and other don't?***

When we consult on big far-reaching changes (e.g. polarisation, new regulatory arrangements for mortgages and general insurance), we may issue a high-level CP first. This will set out our overall thinking and firm proposals, but without all the detail required to draft rules. Once we have received feedback on our proposals, we will develop detailed draft rules and finalised cost benefit analysis, which we must also consult on.

***What do you mean by packaged products?***

The term 'packaged products' is used to refer to investment-based life assurance, personal pensions, collective investment schemes and investment trust savings schemes.

***What is polarisation?***

The polarisation regime applies to the selling of packaged products. It currently requires firms that advise on packaged products to be either: an independent financial adviser (IFA) who acts as an agent for and advises the consumer; or a representative, i.e. the agent of the company, selling on behalf of a single company (or group) and restricted to selling that company's products.

***What is the appointed representative regime?***

The appointed representative (AR) regime allows firms (ARs) to carry out certain regulated activities without being authorised by the us. This is provided that they have a contract with an authorised firm (the 'principal') and that authorised firm takes responsibility for the way in which they carry out those regulated activities. So, the principal is responsible for ensuring that the AR complies with our requirements.

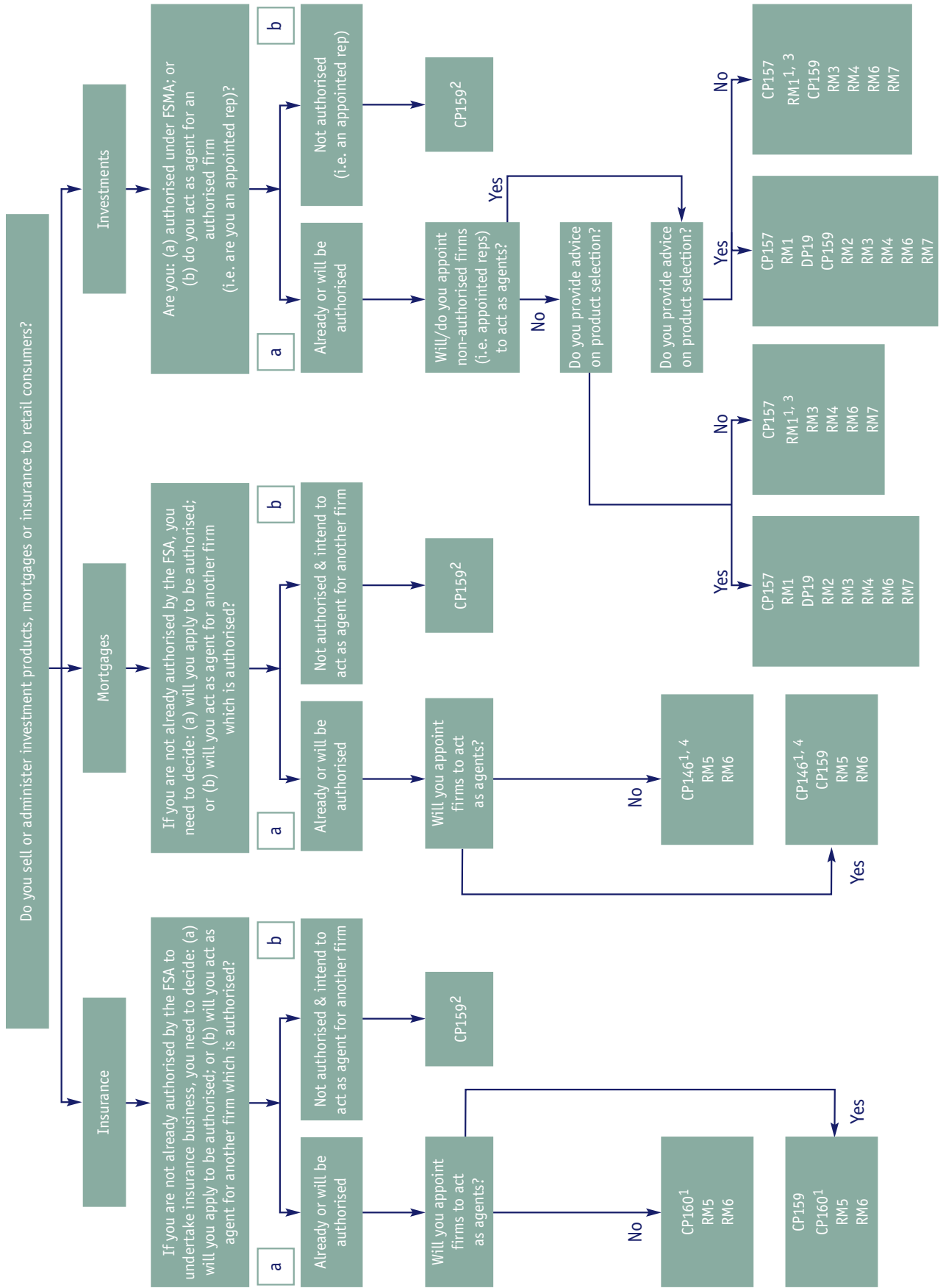
## Retail market reform: provisional publication timetable

CP ref	Title	Relevant to	Content	Consultation published	Consultation on draft rules	Final rules	Implementation
CP157	CP: Examination Framework for Retail Financial Services (Investment Advice Strand 1)	Firms who advise on investment products.	Proposals on a qualifications structure and curriculum detail.	Nov 02	Jul 03	Jan 04	During 2004
RM1	CP: Reform of polarisation regime: feedback statement on CP121 and consultation on draft rules	Firms who sell, advise on, arrange or administer packaged products.	Feedback on proposals in CP121 (Reforming the Polarisation Market) including consideration of the Sandler recommendations, and detailed proposals on: the advice regime and independent/tied arrangements; and initial disclosure (but excluding remuneration/ commission disclosure). Includes draft rules.	Jan 03	Jan 03	Oct 03	Early 2004
DP19	DP: Options for regulating the sale of "simplified investment products"	Firms who sell, advise on, arrange or administer packaged products.	High level options for a selling/ advice regime for a simplified suite of lower risk investment products.	Jan 03	Dependent on HMT consultation on product design	Dependent on HMT consultation on product design	Dependent on HMT consultation on product design
CP159	CP: Appointed representative regime – extending the current regime	Firms who act as, or appoint, non-authorised intermediaries (i.e. appointed representatives) to advise on or arrange investment products, mortgages or general insurance contracts.	Proposals for changes to the appointed representative regime (including its extension to cover mortgage and general insurance intermediaries). This will cover, amongst other things, whether there should be any restrictions on the number of principals an AR can have. Includes draft rules.	Dec 02	Dec 02	Mid-2003	Early 2004 (investment firms) Oct 04 (insurance and mortgage firms)
RM2	CP: Implementing the 'menu' approach to commission disclosure	Firms who sell, advise on, arrange or administer packaged products.	Proposals on the detail of implementing the 'menu' approach to disclosing fees and commissions. Includes draft rules.	Mar 03	Mar 03	Oct 03	Early 2004

CP ref	Title	Relevant to	Content	Consultation published	Consultation on draft rules	Final rules	Implementation
RM3/3a	CP: Informing consumers: product information at the point of sale	Firms who advise on, arrange or administer packaged products.	Proposals on key features documents provided to consumers at the point of sale. Includes draft rules. A supplementary consultation (RM3a) will include further proposals for non-life product information at the point of sale as part of implementing the new UCTS Directive.	Feb 03 Apr 03	Feb 03 Apr 03	Aug 03 Aug 03	End-2003 End-2003
RM4	CP: Information after the point of sale	Firms who advise on, arrange or administer packaged products.	Proposals on information to be provided to consumers at intervals through the life of the product. Includes draft rules.	H2 03	H2 03	H2 04	H2 04
CP146	CP: The FSA's approach to regulating mortgage sales	Lenders, mortgage administrators and firms who advise on or arrange mortgages.	Proposals on: advertising; disclosure of information to consumers; the sales process (including advice and suitability); complaints and compensation; training and competence. Includes draft rules on financial promotions. Consultation on full set of draft conduct of business rules in 2003.	Aug 02	Q2 03	H2 03	Oct 04
CP160	CP: Insurance selling and administration: the FSA's high-level approach	Firms who sell, advise on, arrange or administer general insurance contracts and non-investment life insurance.	Proposals on: disclosure of information to consumers; the sales process (including advice); claims handling; complaints; and training and competence. This also covers key aspects of our proposed implementation of the Insurance Mediation Directive. Consultation on full set of draft conduct of business rules in 2003.	Dec 02	Q2 03	H2 03	Oct 04

CP ref	Title	Relevant to	Content	Consultation published	Consultation on draft rules	Final rules	Implementation
RM5	CP: Threshold Conditions for mortgage firms and general insurance intermediaries	Firms who advise on, arrange or administer mortgages or general insurance contracts.	Proposals on wider application of the FSA's requirements, including: application provisions (including passporting issues); high-level standards (Principles for Businesses, Approved Persons Regime, systems and controls); financial resources (including PII); client money issues; regulatory processes; and compensation scheme. Includes draft rules.	Jan 03	Jan 03	Mid-2003	Oct 04
RM6	CP: Regulatory reporting (insurance, mortgages and intermediaries advising on and/or arranging investment products)	Firms who advise on, arrange or administer mortgages, general insurance or investment products.	Proposals on requirements to provide specified data to FSA.	H2 03	H2 03	H1 04	H2 04
RM7	CP: Implementation of the Distance Marketing Directive	Firms that sell financial services including: banking, investments and personal pensions (mortgages, general insurance and non-investment life products are covered under the sector specific CPs above).	Covers conduct of business requirements (e.g. on disclosure and cooling off periods) for most non face-to-face transactions. Includes draft rules.	July 03	July 03	Mar 04	Oct 04
RM8	DP: Options for the structure of with-profits policies	Firms that provide with-profits products.	Consideration of the Sandler recommendation that all with-profits funds should follow a best practice model, and of recommendations for the structure of a with-profits product within a suite of simplified investment products.	Jan 03	Dependent on HMT consultation on product design	Dependent on HMT consultation on product design	Dependent on HMT consultation on product design

**CP Road Map – This decision tree will help you identify which CPs are most relevant to you (see explanatory notes overleaf).**



## CP road map – explanatory notes

The CP road map is designed to help you identify which CPs may be most relevant to you for business planning purposes (as indicated in the boxes towards the end of the flow chart); if you cover more than one sector you will need to refer to each relevant arm in the flow chart. The focus of the road map is on the provision of services to retail consumers; so for example, while it does include the DP on the Sandler proposals for with profits work (since these relate more directly to consumers), it does not cover the full range of with profits issues. The road map is not designed to provide a comprehensive list of requirements that will apply to an individual firm, nor does it aim to capture all proposed regulatory changes. The full range of regulatory issues currently under consultation can be found on the FSA website ([www.fsa.gov.uk](http://www.fsa.gov.uk)).

### Key

1. Firms that do not currently offer advice may be interested in the Discussion Paper outlining high-level options for a selling/advice regime for a simplified suite of lower risk investment products (DP19).
2. The authorised entity (or principal) remains responsible for ensuring that the non-authorised intermediary (or appointed representative) complies with the relevant FSMA and FSA requirements. Some elements of RM5 will also be relevant to mortgage and general insurance appointed representatives.
3. While RM1 will primarily focus on the new advice regime, the requirements covering initial disclosures will also be relevant to non-advised sales.
4. Mortgage lenders should also be aware of CP98 and the follow up Policy Statement (PS98), which contained draft rules for mortgage lenders and administrators.

