GUIDANCE FROM ICAS REGARDING INVESTMENT BUSINESS REFERRALS BY MEMBERS
RETAIL DISTRIBUTION REVIEW – INDEPENDENT VERSUS RESTRICTED ADVISERS AND THE ICAS CODE OF ETHICS

The ICAS Code of Ethics governs the conduct of members who make referrals (section 241), with the Code based on fundamental principles, meaning that members need to be objective and give objective advice. Consequently, members should only make investment business referrals to advisers who are in a position to be able to give objective advice themselves.

The view of ICAS prior to the implementation of the FSA’s Retail Distribution Review (RDR) was that:

- Independent Financial Advisers should have been able to give such advice;
- Single-tied agents would not; and
- Multi-tied agents needed to be assessed on a case by case basis by the member with the potential referral. Any such assessment should have considered whether the multi-tied firm placed business with the product providers who accounted for a large majority of the relevant market, or offered the sector of the market which was most suitable for the client’s needs (Code of Ethics, section 241.26).

Although the underlying approach of the ICAS Code of Ethics remains the same following the implementation of the FSA’s Retail Distribution Review, which came into force on 31 December 2012, its terminology will require to be amended to reflect the change in the new RDR structure of ‘independent’ and ‘restricted’ advice.

**Independent and restricted advisers**

The updated RDR terminology is designed to clarify how firms describe their investment services to consumers. ICAS members in practice will need to consider how this impacts on their investment business referrals, as discussed below.

As previously, advisers who fall within the FSA’s new definition of ‘independent’ would be considered likely to be able to offer objective advice. However, ‘independent’ is now defined to include not only those advisers who provide independent advice across all markets and all products, but **those who provide independent advice across all products in the relevant market**.

Advisers offering ‘restricted’ advice, ie those who do not fall within the FSA definition of ‘independent’ would, as before, need to demonstrate their independence and ability to provide objective advice to referring members. They then need to assessed by the referring member to ascertain if they place business with product providers that cover a large majority of the relevant market, or offer the sector of the market which is most suitable to the client’s needs.

**The referring member’s role**

The needs of each client will vary on a case by case basis and the client-facing member is best placed to make an assessment of suitability. If a member refers work to an adviser that meets the FSA definition of ‘independent’, no further assessment will generally be necessary. However, if a referral is planned to a ‘restricted’ adviser, the member will need to ensure that the client’s needs would be addressed appropriately, including making an assessment that the restricted adviser has demonstrated that they are able to cover a large majority of the products and providers available in the market that is relevant to the client’s needs.

**Further information**

Further information has been provided by the FSA in ‘Guidance on Independent and Restricted Advice’.

Note: the position for DPB licensed firms remains unchanged – see DPB Handbook 4.19.