

EU passporting blow to RDR

Added 25 January 2011 by Simon Danaher, Senior Online Reporter, Last Word Media [Add a comment](#)



IFA firms passporting into the UK will apparently not be subject to the FSA's Retail Distribution Review, according to the EU Commissioner for Internal Market and Services.

In an email dated 6 December 2010, Simon Mansell, managing director of UK-based Temple Bar IFA, asked Commissioner Michel Barnier to confirm if the RDR would be applied to UK advisers but not to EU advisers passporting into the UK.

He also queried whether the RDR was in conflict with the existing Markets in Financial Instruments Directive (MiFID).

In response, Maira Velentza, head of the financial services policy and financial markets unit of the European Commission, said one of the conditions of MiFID was that any additional requirements set by a European Member State "shall not affect the rights of investment firms providing services in that Member State on the basis of an authorisation granted by another Member State".

Therefore, according to Mansell's interpretation, European firms operating in the UK who have passported in will not be subject to the additional requirements as set out by the RDR, such as moving to a fee-based regime and conditions for a firm to state it is "independent".

Furthermore, firms who passport into the UK may not be subject to the stricter rules governing the qualifications needed to provide advice. According to the Commissioner's letter, while MiFID does allow Member States to set their own rules around working in financial services, these cannot impede access to the industry by other member states.

If the letter - which has been seen by *International Adviser* - does indeed accurately set out the EU's position, it represents a huge bombshell for the FSA and may prove highly damaging to the success of the RDR.

The letter states: "...any such regimes [registration, exams and similar] should not be used as a tool for impeding the access to the profession by residents in other Member States... it is worth to recall (sic) that the regulation and recognition of professional qualifications for regulated profession is governed by the provisions of the Directive 2005/36/EC on the recognition of professional qualifications."

Mansell said the letter confirms that the FSA will not be able to stop inwardly passporting firms offering their services post RDR and could therefore put UK firms at a significant disadvantage.

"If the FSA is allowed to proceed with RDR, not only will many IFAs be unable to continue to pursue their profession (which is also contravening EU rights for citizens), but the IFAs that remain will face heightened competition from other EEA states, and will be unable to respond because their hands are tied, again a breach of EU law," he said.

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