



BREAKING THE TIES

A key issue resulting from the RDR is the dichotomy of long standing advisers deciding or being forced to elect to become de-authorised. The dilemma is what happens to their long standing client banks and are they allowed under the more intrusive regime of the FCA from 1st April to communicate or pass over their clients as an introducer to an authorised adviser or firm?

The Financial Services Authority is well “aware” of de-authorised advisers that are continuing to give clients advice that is then placed with providers as non-advised business, and has called on intermediaries to blow the whistle on peers that have officially exited but continue to advise. The FSA’s post-RDR thematic reviews indicate that the regulator has discovered a number of de-authorised advisers were still giving advice. Surely a recipe for a closer probe by the regulator.

Now the FSA intends to undertake a thematic review into non-advised sales to ensure people who say they are not giving advice are in fact not giving advice. The implications here are serious, as this would be classed as “unauthorised” business and not only the FSA could take action, but also clients would have to take an action against them as they would not have recourse via the FSCS (Financial Services Compensation Scheme) or Ombudsman. Clients need to ask advisers for evidence that they are qualified and they should also check the FSA register.

This will also form part of the FSA/FCA’s whistle-blowing regime.

The other aspect which is a concern to the regulator is where de-authorised advisers become “introducers” and accompany an authorised adviser to meetings with their old clients. There is clear potential here to easily breach the rules in the introductory conversations or handover of clients. The danger is giving advice or saying things which are interpreted as advice to the client.

The regulator is pragmatic in probably allowing one joint meeting to handover clients when the whole meeting is clearly documented and evidenced as to who has said what. However, more than one joint meeting is likely to be challenged and investigated.

Peter Smith
Head of Distribution Engagement