FINDING A SUIT THAT FITS

The latest retail conduct risk outlook gives a clear signpost from the new regulator on their immediate views post the retail distribution review landscape. In essence it contains no surprises but importantly should not be overlooked, as it is a clear statement of intent for the next 12 to 18 months. The underlying message is clear and originally was based exactly on the original ten TCF principles, in that firms must align their practices with this and govern themselves to ensure the fair treatment and well-being of customers. Failure to do so risks incurring investigation and clarification on actions from the new regulator.

Advisory businesses need to focus on structural and behavioural factors, design structures and processes, including culture and incentives, to avoid consumer bias and potential mis-selling, particularly those structures and behaviours that drive firms' and consumer decisions.

Concerns around "suitability" have been raised across a broad church of the TISA membership, as a result of which a suitability seminar took place last week where a range of speakers addressed a diverse assortment of suitability issues.

From a legal perspective, there was a clear message from Simon Morris of Cameron McKenna warning against advisers placing even small amounts of a low-risk client's portfolios in a high-risk product on diversification grounds. In terms of suitability, where clients have a low risk appetite, every product in the client's portfolio should match that assessment.

"If you have a low-risk client every product should be consistent to that attitude of low risk and it's not acceptable to include small amounts of high risk on the grounds of diversification. If you have someone as low risk, you include a high-risk product at your peril."

This very much mirrors the views of the Financial Services Authority (FSA) outlined in its initial iterations of the Arch Cru redress scheme. The FCA has now confirmed that the Arch Cru funds, as a high-risk investment, were not suitable for clients with a low-risk attitude when consulting on its plans. However, that stance was later softened, with more account being taken of the place of the funds within the client's overall portfolio.

The suitability message is evident in that advisers should do more to understand the 'soft' facts about clients in assessing suitability. Typically, you don't obtain necessary information by sending a questionnaire in the mail to the customer, you can only obtain this by interviewing the customer and recording the meeting on the spot. Robert Reid of Syndaxi will tell you he conducts most meetings with an assistant present. The assistant takes the notes whilst Robert concentrates on the dialogue with the customer to avoid any distractions or misunderstandings.

The regulator is focussed on suitability and appropriate outcomes for consumers however attention currently stretches across distributor influenced funds or centralised investment processes, replacement business and agreements between adviser provider and consumer. In addition, there is focus on adviser charging and facilitation from DFMs and independence and using DFMs.

The essence in all of this from a suitability perspective is around the why rather than what. In other words advisers have to clearly demonstrate the rationale selection process and reasons for a suitable selection of products and funds; if there is outsourcing to a DFM, it has to be clear who does the risk profiling and how the adviser charging operates on referral.

Undoubtedly there is requirement for more lucidity here and TISA will be instigating a project to help clarification for its members and the wider market.

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