TAKE THE MONEY AND RUN

With the advent of a brand new year, thoughts invariably turn to financial planning and budget setting for many advisory firms, focusing on how to juggle operating costs and revenues in alongside which providers, fund groups and platforms - which applies to Restricted and Vertically Integrated business models - to work closely with.

Everyone is well aware that the RDR bans the provision or receipt of benefits that could impair an adviser firm's duty to act in the best interests of clients. The regulator ruled out advisers accepting any payments from providers that are not designed to enhance the quality of service provided to a client and not clearly disclosed.

Any arrangement that enables a provider (life company, fund group, platform etc.) to secure distribution by paying monies and providing other benefits to an advisory firm could inappropriately influence the advice received by a customer causing a firm to breach Principle 8 (Conflicts of interest) and the COBS inducements rules. Firms running a restricted model still have the conflict of interest rules as well as safeguarding customer outcomes from remuneration bias.

Any joint venture between a provider and advisory firm must be consistent with the RDR and designed with the end customer in mind. The FCA have encouraged any firms considering launching such joint ventures to discuss their plans with the regulator's staff in detail. All firms must undertake their business in line with the FCA's 11 Principles for Businesses. Principle 8 requires that a firm must manage conflicts of interest fairly, both between itself and its customers and between individual clients.

If there is a conflict, or potential conflict, it must maintain and operate effective organisational arrangements to identify and take all reasonable steps to prevent conflicts of interest giving rise to a material risk of damage to the interests of its customers. There is one obvious thing to be aware of here - if a firm is in a situation where it could receive a benefit but has yet to receive it the FCA believes this is enough to impair the judgment of that firm, so the potential conflict needs to be managed in the same way as an actual conflict. Compliance officers, you have been warned!

Any payments or non-monetary benefits made by providers to advisory firms connected with distribution give rise to the risk of conflicts of interest, as they may incentivise a firm to act in a way that is inconsistent with the interests of its customers. Should the payment or non-monetary benefit be offered or accepted, the resulting conflicts are effectively managed if the risk of the firm putting its own interests ahead of the customer is removed.

Where an independent advisory firm operates a panel of providers, the inclusion of providers on the panel should not be influenced by the provider's willingness and ability to purchase significant services from, or provide other benefits to, the advisory firm. The obvious issue here is to clearly document the due diligence and rationale to accepting any form of benefit given. Don't forget, this can include conference and sales team meeting support, training or the provision of support which can be construed to have a 'value' to the advisory firm that it is not purchasing at market rate.

Exclusive distribution arrangements that advisory firms have with a single provider can give rise to conflicts. All firms have to demonstrate how they manage & oversee potential conflicts of interest. This is the case where the selection of the provider is influenced by sizeable payments or benefits the provider offers through service or distribution agreements and results in advisory firms putting their commercial interests ahead of their customers' interests.

If you are still confused or think you may be in danger of breaching the rules, you can check the original paper via the link below.

http://www.fca.org.uk/your-fca/documents/guidance-consultations/gc13-05

Peter Smith, Head of Distribution Engagement