

Navigating compliance in 2011

MASTHEAD - SOUTH AFRICA'S LARGEST NETWORK FOR INDEPENDENT FINANCIAL ADVISORS TAKES A LOOK AT COMPLIANCE DEVELOPMENTS FOR FINANCIAL ADVISORS

WHAT IS MASTHEAD DOING TO PREPARE MEMBERS FOR RE1 AND RE2 EXAMS?

Masthead has implemented a number of measures to prepare their members for the upcoming Regulatory exams. "We have been making our members aware of these exams since notice of them was published in 2008", said Ian Middleton, Masthead's managing director. "We also ran well-attended compliance workshops late last year, informing members of how the exams work and what they would need to prepare". "In the Western Cape alone we had a turnout of approximately 90% of our members attending our half-day sessions, showing us that there is an appetite to learn and a commitment to the support that Masthead provides", added Middleton. "While we do not provide training ourselves, we have reached agreement with three training providers to

assist members in preparing the exams". In addition, Masthead has reached an agreement with an examination body to facilitate exams for their members wherever they may be.

Treating Customers Fairly – how does it apply to financial services?

"The Treating Customers Fairly (TCF) initiative looks at the whole life cycle of a financial product and includes the point at which advice is provided", said Middleton. This aspect of advice is already heavily regulated in terms of FAIS. "We see TCF as an initiative which will bring the whole industry into line with the principles of consumer protection, fairness and clients making informed decisions as envisaged by FAIS", added Middleton. "Advisors have effectively been regulated in the advice phase of the TCF life cycle through FAIS since 2004. TCF creates more balance in regulation because

it spreads the obligations by placing an onus on providers pre- and post- the advice phase and we welcome this development". From an independent financial advisor point of view, TCF should be viewed as a positive step. Middleton explained, "Advisors now have more peace of mind that the financial products which they are in effect "on-selling" to customers will deliver the benefits that are promised in the marketing material on which they base their advice".

HOW DO WE DEAL WITH SO MUCH LEGISLATION?

We have a mountain of legislation in the financial services industry, much of it complex and involved. Dealing with all this legislation takes time and resources. "We believe that a regulated industry is better than an unregulated one," said Middleton. Much like there should be rules of the road... for everyone. Can you imagine the chaos if there were no traffic laws. "We also recognise that things change – products change, economic conditions change, cus-

tomers expectations change, and governance standards change", he added.

"Regulation should evolve as the industry and its broader needs change. If it did not, we would become frustrated", said Middleton. So, we learn to live with changing regulation. But, changing regulation does not mean more regulation, and effective regulation does not mean there is a need for more regulation, added Middleton. He explained that, too often, more regulation is seen as the preferred choice, certainly the easier one. Things tend to fall down and become ineffective. Laws are good where adherence to them is monitored and sanctions for contraventions are enforced. "Before new regulation is introduced, existing regulation should be reviewed and the question should be honestly answered - is there gap in the regulation and therefore a need for more, or is the gap in the policing and enforcement?" We believe in appropriate regulation... regulation that has a defined objective, is simple to understand, easy

to follow, relatively inexpensive to implement, and is actively enforced.

IS THERE MORE LEGISLATION AHEAD?

According to Ian Middleton, we can expect some tweaks to existing legislation and we can expect some additional legislation. We need only look to countries like the UK and Australia to get a sense of what may be introduced into SA. "We know that our regulators keep an eye on developments in those countries even if they don't introduce foreign regulations verbatim into our industry. We know that they look to international trends and are in regular contact with their international counterparts", said Mid-

dleton. This, we believe, is a good thing and ensures that SA benefits by being part of the global financial services landscape. But, before simply introducing what's good for a foreign market we think there should be serious consideration given to whether it is good and necessary for the local market, added Middleton. Apart from the changes which may come on the regulatory front, we've already seen the first signs of increased enforcement and we believe this will continue, said Middleton. "On a personal note, we'd be pleased to see some consolidation with appropriate enforcement rather than new regulation for the sake of regulation", said Middleton.

