MASTHEAD

Product Supplier Responsibilities

In further unpacking the RDR Proposals, we have a look at the responsibilities of product suppliers in ensuring fair customer outcomes. Under the current regulatory framework responsibility for fair customer outcomes, particularly in relation to advice, has largely been placed on financial advisors. The aim of the Regulator is to re-balance this responsibility by requiring product suppliers to get involved. This is also more consistent with the 6 principle-based outcomes of TCF that follows the product life cycle.

While this should be welcomed by financial advisors, they will still need to assess and understand how this will potentially affect their businesses and the existing relationship which they have with the product suppliers with whom they have contracted.

RDR proposes that the product supplier responsibilities will differ depending on the type of financial advisor, i.e. Tied, Multi-Tied or Independent Financial Advisors.

It goes without saying that because a ***Tied Financial Advisor*** has an employment or other relationship with a product supplier which restricts the advisor to providing advice in relation to that product supplier's products *only*, that the product supplier should be responsible for the advice and the compliance with all regulatory provisions of the tied financial advisor. This is also consistent with the legal principle that, in a tied agent relationship, the advisor acts as the agent of the company/supplier.

So, with not much change relative to tied agents, we will therefore focus on the responsibilities the product supplier will have in relation to multi-tied and independent financial advisors.

A ***Multi-tied Financial Advisor*** is not regarded as an agent of any one product supplier but because, in terms of the definition, the relationship between the advisor and the product supplier is not entirely at arms-length, the product supplier will carry some form of responsibility for the quality of advice provided to their shared customer as opposed to the current framework where this responsibility rests almost entirely with the advisor. This means that product suppliers will have to pay greater attention to the culture of treating customers fairly in the advisor's business as well as the supporting controls which the advisor has in place.

Specifically, in terms of the proposals, product suppliers will have to ensure:

- ***Advisors are adequately equipped to provide information and advice in relation to their products.*** Training will have to be provided to advisors without imposing any unreasonable barriers or conditions to such training, e.g. minimum production levels. Product suppliers ***will not*** be able to enter into an arrangement, including commission payments and advice fees, with an advisor where the advisor is not appropriately equipped. By setting conduct standards in relation to this, the level 2 regulatory exams (ie. the product-related exams) may be replaced with a new model. Further consultation will, however be required in this regard.

- ***Advisors can deliver fair customer outcomes and provide suitable advice.*** This means that product suppliers will have to implement processes to establish whether an advisor meets the fit and proper requirements, has sufficient governance and controls in place such that the TCF outcomes can be delivered and that there is no cause for concern about the commitment of the advisor to a culture of treating customers fairly.
- ***Monitor that customers are being treated fairly in relation to the Advisor's book of business.*** Product suppliers will have to monitor the business of an advisor, such as the type of business, the volume of product sales, after sales product changes, product terminations, replacements, transfers, claims and complaints. They will need to be able to identify where there are poor customer outcomes in an advisor's business and address these issues.
- ***Identify activities of the advisor which pose a risk to fair customer outcomes.*** These types of activities could include monitoring sales of products with unusually large recurring contributions or the sale of long term products to elderly customers. They will also have to monitor where sales are being sold to customers which do not fall inside the product target market.
- ***Processes to monitor and resolve customer complaints.***
- ***Monitor adherence by advisors to the fee guidelines for advice.***

Although **Independent Financial Advisors (IFA)** (as defined in the RDR Proposals) and product suppliers share customers and therefore share responsibility for customer outcomes, it is accepted that the relationship between the product supplier and the IFA is at an arms' length and that product suppliers cannot be expected to exercise the same degree of control in relation to customer outcomes. However, they will have to take responsibility for certain aspects of the conduct of IFA's who provide advice on their products:

- Where the product supplier facilitates the payment of commission or advice fees, they will be required to ensure that the advisor meets the same level of ***product knowledge*** as expected of a multi-tied advisor. If the advisor fails to meet these requirements then the product supplier will not be able to enter into the commission or advice fee facilitation arrangement.
- ***Identify those activities which pose a high risk for poor customer outcomes***.
- Monitor ***adherence to fee guidelines*** where an advice fee is entered into.
- ***Monitor and assist in the resolution of customer complaints*** and take steps to mitigate fair outcomes.

The FSB will regulate the product suppliers to ensure that they are exercising appropriate oversight responsibilities.

If the RDR Proposals are accepted in their current form, then advisors will need to consider the impact of the product supplier responsibilities on their businesses based on whether they decide to be tied, multi-tied or independent financial advisors. Where advisors have set their strategic objectives, can articulate their value proposition, have documented business operational processes and have implemented control measures, the “due diligence” by products suppliers on their businesses should present no additional burden.

Masthead is well positioned through Practice Management to assist advisors in ensuring that their businesses are run professionally and efficiently.

The responsibility that suppliers take on must be reasonable relative to multi-ties and independents must be balanced. If it’s not, if it places too much or a disproportionate onus on them (relative to their own tied advisors), they will simply withdraw from these markets and those advisors who wish to be multi-tied or independent will not find suppliers who will do business with them. The increased obligations on product suppliers will incur costs and one would need to look whether these costs can or will be passed on to advisors and what the financial impacts could potentially be. Advisors may need to implement additional resources or administrative functions in order to provide the product suppliers with required information to enable them to fulfill their obligations. To avoid tomorrow’s surprises, advisors would be well advised to make early plans to ensure that they are well prepared for the impending changes.

Masthead will gather comments from its members and include these into the constructive feedback to the Regulator.