

Regulation of Intermediaries

Points to Consider

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Overview

- What are the issues that need regulating?
- Defining the relevant activities
- What are the products?
- Options for regulating market entry
- Options for regulating disclosure
- Dispute resolution

What are the Regulatory Issues?

- Poor quality of financial advice
- Product pushing
- Product churning
- Secret commissions
- Conflicts and lack of independence
- Disappearing acts

Different Approaches

- Establishing bar to entry
- Minimum code of conduct
- Minimum skills and knowledge
- Minimum disclosure

Determining Approach

- How is industry structured?
- Who provides the service?
- How is industry compensated?
- What do consumers want?
- Where is industry going?

Activities to be Regulated

- Advice (definition is critical)
 - General
 - Personal
- Dealing
 - Acting on behalf of
 - arranging
- Planning/broking process
 - Know your client
 - Know your product

Products to be Included

- Shares, derivatives and FX
- Master trusts
- Life insurance
- Superannuation
- General insurance
- Wrap accounts

Regulatory Options

- Licensing business
- Registration of individuals
- Code of conduct
 - Self regulation (industry associations)
 - Product providers
- Disclosure / conduct only

Licensing in Australia

- Focus on capacity of entity
- Entity responsible for advisers
- Resource intensive on regulator initially
- Focus on Responsible Officers and compliance monitoring
- Fewer numbers to regulate

Registration

- Focus on individual capacity
- Knowledge / skills
- Individual liability
- Ability to move within industry
- Pressure on regulator – greater numbers
- Need for independently set and monitored standards

Self Regulation

– Codes of Conduct

- Need a sophisticated industry body
- Discipline and removal authority
- Minimum objective standards
- 100% membership
- Issue of funding
- Can support licensing approach

Basic Requirements

– whichever option

- Minimum skills and knowledge
- Minimum disclosure
- Independent dispute resolution
- Objective standards + learning framework
- Recognition of prior learning + experience

Current Australian Issues

- Implementation of minimum advisor competency – different products and services
- Difficulty for small players
- Statements of advice - scalability
- Definition of services
 - Arranging and general advice
 - Broad capture

Minimum Standards

- Regulator can define but need an objective standard
- Need certification of achievement of standard
- Need to be independent
- Fit in recognised education framework
- Grand fathering – on what basis?



Disclosure

- Focus on key issues
 - Basis
 - Conflicts
 - Product replacement
 - Remuneration
 - Limit of product recommendations
- Should not stifle service
 - Outcome focused, not process focused
- Flexibility in provision
 - Different for different clients
 - Recognition of longer term relationships
 - Choice for consumer

Dispute Resolution

- Independent body
- Skilling – industry and product knowledge
- Costing – who pays?
- Restitution / compensation?
- After internal process

Thankyou and Questions



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