

DEVELOPMENTS IN FINANCIAL SERVICES REGULATION

11 NOVEMBER 2015

CLAIRE WHITELEGG, DEPUTY
DIRECTOR - FUNDS AND INVESTMENT
SERVICES



ISLE OF MAN
FINANCIAL SERVICES AUTHORITY

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AGENDA

- Financial Advice
 - Visits
 - Pensions Advice
 - UK Defined benefit scheme transfers
 - Financial Resources for Financial Advisers
 - Explanatory Guide to Financial Advice
- AIFMD third country passporting



Visits - Observations

Good practice

- Most advisers appear to have embedded the principles of identifying vulnerable clients and putting safeguards in place
- Remuneration policies generally in place
- Improvements in standard of reason why letters
- More awareness of need for cost benefit analysis
- Better focus on client classification



Visits - Observations

Areas for improvement

- Evidencing and documenting rationales
- Compliance monitoring of suitability
- Provision of information pre and during visit



Visits - Conduct

- Ensure all information provided in timely way pre and during visit
- Ensure all required persons are available
- If you hold information that can explain an issue provide it at the visit don't wait until you get the final visit report



Visits - Reports

- Draft reports - 1 opportunity to identify factual accuracy and timescales and actions are achievable
- Visit Findings are the Authority's findings on what was observed
- Highlight any issues with visits actions and timing of actions at draft stage



Visits - Report Actions

- Once final report issued you are expected to complete remedial actions as specified to time in accordance with the action timetable
- If this is not possible it is for licenceholder to inform their relationship manager at an early stage



Pensions Advice - Current issue for IOM advisers

- Class 2(6) permission required if **advising pension trustees or managers** - including SIPP-type arrangements

Where investor seeks financial advice adviser must -

- Ensure it is clear who the advice is being provided to and what capacity they are acting in
- If making investment arrangements for trustee/ manager ensure relevant agreements are in place
- **Do not** advise trustee/ manager unless hold 2(6) permission



Pensions Advice - the way forward

- Policy team undertaking a limited review of regulated activities order as part of work to introduce crowd funding
- The issue of advice on SIPP's will be addressed in this review
- Consultation high priority - hoped to be Q1 2016



UK Defined benefit pension scheme transfers

Requirement - appoint a UK FCA regulated pension transfer specialist for advice on transfer of a UK defined benefit pension scheme valued over £30k

- Issues for IOM advisers and investors
 - Dual advisers
 - Suitability and knowledge of IOM
 - Cost
 - Delays
 - Scheme members who have never had a link to UK



UK Defined benefit pension scheme transfers

- UK Department of Work and Pensions (DWP) sought views of IOMFSA (FSC) and other regulators on practical implementation of approach
- Meeting in London September 2015
- Feedback sought from IOM advisers and provided by IOM representative



UK Defined benefit pension scheme transfers

- Areas discussed
 - Controls of advice in individual regimes
 - How to ensure appropriate knowledge and standards
- Potential solution discussed - require level 6 pension specialist qualification



UK Defined benefit pension scheme transfers

- DWP has confirmed that it is considering matters and the Authority understands solutions are being explored
- IOMFSA will provide updates to industry as information becomes available



Financial Resources for Financial Advisers

In July 2015 the FSC contacted licenceholders about the Financial Resources calculations for owner-managed businesses.

The new policy stated where one or more directors chose to draw no, or only minimum, salaries the licenceholder's Liquid Capital Requirement should reflect the approximate replacement costs of the directors' time.



Financial Resources

The Financial Planners and Investment Brokers Association (FPIBA) have contacted the Authority to highlight the differences of approach to financial resources for financial advisers between the UK FCA (including their new proposals) and the previous and new requirements for the Authority.

The Authority is meeting with FPIBA to discuss the matter.



Explanatory Guide to Financial Advice

- The guidance is in the process of being rebadged under the Authority
- Until the update is published Advisers should continue to provide the existing Explanatory Guide to investors
- There will be a further review of the content of the document in due course



AIFMD third Country passporting

- The EU and ESMA have begun detailed assessment of non-EU jurisdictions for the purposes of 3rd Country Passporting under the AIFMD
- Individual National Private Placement Regimes continue protem
- Future of National Private Placement Regimes still to be considered by the EU



AIFMD third Country passporting 1st wave of Assessments July 2015

Jurisdiction	Result of July Assessment
Jersey	recommended for passporting when the passport becomes available
Guernsey	recommended for passporting when the passport becomes available
Switzerland	has to make certain legislative changes before it can passport
USA	July assessment did not lead to a definite view - assessment continue
Hong Kong	July assessment did not lead to a definite view - assessment continue
Singapore	July assessment did not lead to a definite view - assessment continue



AIFMD third Country passporting

2nd wave of Assessments announced October 2015

Jurisdiction	Result of Assessment
Australia	????
Canada	????
Japan	????
the Cayman Islands	????
the Isle of Man	????
Bermuda	????



AIFMD third Country passporting

Next steps

- **Current:** IOM to liaise with ESMA re assessment of IOM regime
- **March 2016:** new deadline for ESMA to produce the assessment of third country jurisdictions
- **July 2016:** new deadline for the European Commission to develop the delegated act which would introduce 3rd country passporting



DEVELOPMENTS IN INSURANCE REGULATION

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