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IMAP Regulation
Update for
Advisers
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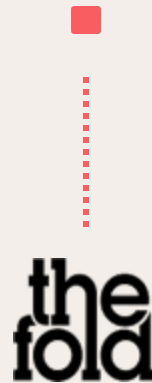
Objective of the IMAP Regulatory Group:

- To manage and coordinate the engagement between managed account professionals and the regulators
- To provide broad dissemination of issues relevant to Licensees, Advisers and Managed Account Providers

UPDATE

FASEA CODE OF ETHICS.

Simon Carrodus
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STATE OF PLAY.

- + Consultation sessions held last week.
 - + Stephen Glenfield (SG) promised the guidance document will be updated and re-issued in December.
 - + Code itself unlikely to be updated before 1 January 2020.
 - + SG confirmed that the purpose of the Code was to raise standards *above the current legal requirements*.
 - + SG: The guidance is illustrative only. It is not possible to provide specific guidance on every possible scenario. Advisers need to apply their own professional judgement to different situations.
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STANDARD 3

- + SG confirmed that the Code is not designed to implement a blanket ban any of the following:
 - Life commissions;
 - Grandfathered commissions (pre-1 Jan 2021);
 - Asset-based fees;
 - Brokerage fees; or
 - In-house products/services.
- + If you act **demonstrably** in the client's best interests and avoid conflicted remuneration, you will have **avoided** the conflict and you will not breach Standard 3.

STANDARD 3 (continued)

- + SG stressed that Standard 3 only prohibits “actual” conflicts, as opposed to *potential* or *perceived* conflicts. I pointed out that no such distinction exists in the Code.
- + Nonetheless, SG’s explanation was that by *managing* a potential conflict so that it does not influence your advice, you ensure that it does not become an *actual* conflict.
- + While there will be no blanket ban on life commissions, asset-based fees, in-house products etc, a higher standard of advice is expected and a greater level of scrutiny will be applied.
- + SG’s explanation was reasonable, but it is inconsistent with the Code itself. Many of us pointed out that the only way forward is to redraft Standard 3 in the Code.

REFERRAL FEES.

- + Both SG and Deborah Kent (DK) confirmed that FASEA's intention is to ban paid referral arrangements.
 - + They want to "professionalise" the industry and bring it into line with other professions who refer on merit/competence alone.
 - + Query whether this extends to referrals to mortgage brokers and lenders, which are governed under the *National Consumer Credit Protection Act 2009*. DK suggested that it does, but the Explanatory Statement only purports to ban paid referrals to other "relevant providers".
 - + SG said that they would look into this and provide clarification in the updated guidance.
 - + I told DK that if paid referrals are banned from 1 January 2020, half of the industry will find themselves in breach. There are contractual arrangements in place that cannot be unwound immediately.
 - + I called for a 2 year transition period. DK acknowledged my concerns and I am hopeful this will be reflected in the revised guidance.
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OTHER MATTERS.

- + Scaled advice: SG confirmed that the Code is not designed to kill scaled/scoped advice. A few of us pointed out that some “relevant providers” (e.g. stockbrokers, life risk specialists) only provide advice in one or two areas. This doesn’t fit with the FASEA obligation to “investigate the client’s broader, long-term interests”.
 - + SG and DK agreed that the guidance needed to be clarified on this issue.
 - + Wholesale clients: I suggested that FASEA was attempting to re-write the definition of a wholesale client.
 - + SG said this wasn’t the case. However, he agreed that example 2 viewed in isolation “potentially opens a can of worms” and said that this will be addressed in the updated guidance.
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ASIC Platform and MDA Project – Possible Sequence

- Information gathering and analysis December 2018 – August 2019
- Policy considerations – August 2019 – ongoing
- Draft regulatory change – 1st Half 2020
- Consultation and submissions – probably 30 days to submit

Issues ASIC May be Considering

- Investment Governance and capabilities for portfolio managers of managed accounts
- Capital requirements – signalled in September 2016 update of Class Order
- Types of operating models and the responsibilities of each participant
- Documentation and disclosure

Other Issues

Redefinition of Wholesale

Next Steps

Participate in IMAP Submission process

To indicate your interest in participating

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