



FINANCIAL REGULATOR
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Re: Sales Process Review

In May 2004, the Financial Regulator asked firms to critically review their sales processes to examine how investment products were sold to elderly and vulnerable customers and to report to the Financial Regulator on the effectiveness of their controls and procedures. The purpose of this letter is to provide insurance companies and credit institutions which made submissions, with some general feedback in relation to the Financial Regulator's findings. We will not be providing specific feedback to individual firms.

This letter sets out our findings from that review under the seven key areas listed below. The findings are a summary of the information received from participants in the review, regarding some of the general sales practices operating in the insurance and banking sectors in the period 2004 / 2005. We have also set out our concerns, which we would ask you to consider when developing possible improvements to your existing sales model. We would stress that the ultimate responsibility for compliance rests with the financial service provider.

We have focussed on the following key areas in the sales process.

1. Sales process and advice
2. Sales to elderly/vulnerable customers
3. Complaints handling
4. Documentation
5. Quality assurance
6. Training and competence
7. Sales to deposit holders

REVIEW FINDINGS AND FINANCIAL REGULATOR'S COMMENTS

1. SALES PROCESS AND ADVICE

FINDINGS

The review found:

- That only two firms out of the twenty-four respondents stated that they had a mechanism in place to monitor the quality of verbal advice given by sellers to customers.
- 25% of firms identified weaknesses regarding fact find recording as part of the review.
- Client affordability is not being fully recognised as an important assessment criteria for consideration as part of the sales process.

- 50% of respondents do not have a risk rating mechanism for their products which can be communicated to sellers and consumers.
- The number of risk categories used to present risk to customers varies in complexity with some firms presenting between 5 and 10 categories of risk to their customers during the fact finding process. This is potentially confusing for customers at the point of sale.
- The classifications used by firm to internally risk rate their own products is not, in some instances, consistent with the definitions and classification used in the fact finding process. There is a mismatch between the categorisation of risks for the firms' products and that which is used to assist consumers risk rate themselves during the fact finding process.
- Lack of clarity between the provision of investment advice and execution only sales.

COMMENT

1. The interaction between the seller and customer is a critical part of the conclusion of a sale and experience shows that customers tend to rely more on the verbal interaction rather than on the written documentation supplied. Firms need to consider what mechanisms they can put in place to monitor and evaluate what is being verbally told to the customer at the point of sale. Assurances and promises made by the seller at the point of sale can be the basis for legitimate customer expectations and grievances after the sale of a product.
2. Firms need to ensure that financial advisors are recording and completing fact finds to the standard required of the firm's internal procedures.

3. The submissions received indicated that there was a lack of clarity in some firms between investment advice and execution only sales. Firms need to ensure that their financial advisors clearly understand what an execution only sale is and when the *'Knowing the Consumer'* requirements apply.
4. The submissions highlighted the need for firms to consider having some mechanism in place to ensure that a customer's net disposable income and affordability are included in the criteria for assessment as part of the *knowing the consumer* process and at the quality assurance control stage for assessing new business sales.
5. A number of firms do not have a risk rating mechanism for their products. Misselling cases can arise where financial advisors do not place appropriate emphasis on identifying whether customers are prepared to take the level of risk, inherent in the product recommended.
6. From the submissions, we also found evidence that some firms are not paying sufficient attention to matching the risk rating of their own products with the risk rating profile of their customers. Firms need to bear in mind that having the appropriate risk rating mechanism and definitions in place will:
 - Help customers better understand what is meant by the different risk categories.
 - Assist financial advisers in capturing the customer's Attitude to Risk and matching the risk rating of the product to the customers stated risk profile.
7. The Financial Regulator is concerned that some firms are using generic template reason why letters without appropriate customer specific information. The types of generic reason why letters we are referring to are ones which

contain long paragraphs giving a generic explanation of how the products work (this is usually explained again in the product literature that the customer gets) and a summary of the firm's history. These descriptions and paragraphs often comprise most of the reason why letter with only a small portion of it being devoted to describing the customer specific information and the specific reasons for the particular recommendation that is being made.

2. SALES TO ELDERLY/VULNERABLE CUSTOMERS

FINDINGS

The review found:

- Two thirds of firms had a definition of elderly, which varied between 50 years of age to 80+ years of age.
- Only four firms had a separate definition for vulnerable customers.

COMMENT

The Financial Regulator is very concerned that the definition used for elderly customers by some firms were those customers aged 80 years and over. Firms need to consider setting a practical definition for elderly customers and having additional controls and procedures in place that will protect this category of customer. As the normal retirement age for many customers is 60 years of age, this could be a useful benchmark to use when considering what additional controls and procedures are necessary for this category of customer. The Financial Regulator acknowledges the challenges facing firms in relation to balancing their policies for dealing with elderly customers with existing Equality legislation. However in making sales to this type of customer, it is important that you have appropriate controls and procedures in place that are required for compliant sales to them.

Elderly customers tend to have greater capital security needs, usually wishing to preserve their capital since they are no longer active in the work force. The term of the investment, access to funds and the possibility of future premium increases are also additional criteria that should be carefully assessed when selling products to elderly customers.

In addition, there are vulnerable customers who are “new to money” who may also have a requirement for capital security, may be inexperienced in investing and may need more advice in relation to the trade off between risk and reward. Therefore, each firm also needs to consider how it categorises vulnerable customers and what checks and balances are required to ensure that the particular needs of this category of customer are adequately addressed in the firm’s existing sales model.

3. COMPLAINTS HANDLING

FINDINGS

The review found that:

- Time limits and turnaround timelines for responding to complainants varies across firms.
- 25% of firms identified failings in internal controls in the area of complaints handling.
- 75% of all firms maintain one central complaints log.
- 40% of firms have invested in specific complaints software packages.
- There was a lack of structured or common root cause analysis in relation to complaint analysis where firms are dealing with complaints on a case-by-case basis, rather than considering whether the complaints being received indicate that a general problem needs to be resolved.

COMMENT

The Financial Regulator is concerned that firms are not proactively examining whether issues identified in the settlement and resolution of individual complaints impact other customers. Having the appropriate management controls in place will assist firms in utilising the valuable intelligence gained from complaints, so that it can feed in a planned way, into identifying and remedying any recurring or systemic problem.

In addition to having the appropriate systems and controls in place, firms also need to have employees who are properly trained and empowered to investigate and resolve complaints.

High standards in handling complaints will consequently improve transparency and openness between a firm and its customers.

4. DOCUMENTATION

FINDINGS

The review found that:

- 25% of firms identified limitations in their documentation currently in use.
- Two firms are members of the Plain English Campaign.
- There is insufficient emphasis on clarity and over-use of legal jargon in product documentation.
- In some cases out of date versions of documentation are being used.

COMMENT

The Financial Regulator is concerned consumers may be confused and overloaded with legalistic and unclear documentation at the point of sale. Firms need to consider reviewing policy documents and promotional material to remove clauses that are unclear and hard to understand.

Financial promotions can play a significant role in the decisions consumers take, so marketing material and brochure ware needs to be clear, fair and balanced. Additionally firms need to ensure that the offers, incentives or discounts promised in marketing material are capable of being operationally deliverable.

5. QUALITY ASSURANCE

FINDINGS

The review found that:

- Almost half the firms identified weaknesses or deviations from their internal sales procedures and/or the Codes as part of this review.
- The method, size and frequency of sampling undertaken as part of quality assurance varied significantly amongst firms.

COMMENT

Quality Assurance has a pivotal function within firms in ensuring that new business written by financial advisors complies with internal standards and adheres to the requirements of the Code. Firms need to be satisfied that sufficient and adequate resources are devoted to this vital function to ensure that cases of potential misselling are identified at an early stage.

6. TRAINING AND COMPETENCE

FINDINGS

The review found:

- A lack of a dedicated training function or insufficient resourcing of training teams in some firms.
- Some poor standards in relation to the mechanisms firms have in place for logging and monitoring the training undertaken by staff within the firm.

COMMENT

The Financial Regulator is concerned that insufficient resources are being allocated within firms to ensuring that the appropriate training and ongoing supervision of financial advisors is taking place.

Inadequate and poor staff training can contribute to a higher incidence of consumer complaints, allegations that consumers have not been treated fairly and inappropriate sales.

7. SALES TO DEPOSIT HOLDERS

The review found that while many of the Credit Institutions did target existing customers to make referrals to investment consultants, almost 70% stated that they do not have a formal written policy in place to monitor this contact. However, 78% of this group stated that all customers are afforded the full advisory process before any further investment is made.

COMMENT

Firms need to consider what mechanism can be put in place to monitor referrals between different functions within an organisation.