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Regulatory challenges and opportunities: Insurers, intermediaries and policyholders – Who is being treated fairly?

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The regulatory landscape

- Timeous summit – the FBS’s Retail Distribution Review was published late on 7 November 2014
- Comments are due by 2 March 2015
- With annexures it is a 97 page turgid document

TCF fairness outcomes

- Basis for regulations is Treating Customers Fairly must be the culture of product suppliers and intermediaries
- The six TCF outcomes are:
 - Customers know that TCF is central to the corporate culture
 - Products and services are designed to meet customers' identified needs
 - Customers get clear information and are kept informed
 - Advice is suitable and takes account of circumstances
 - Products perform as promised and service is at acceptable and promised standards
 - No unreasonable post-sale barriers change products, intermediaries, providers or to claim or complain
- Micro-intervention is not the answer
- Product suppliers and intermediaries also need to be fairly treated

Types of intermediaries

- New strict classifications of intermediaries are proposed:
 - Independent financial advisers without allegiances or affiliations
 - Multi-tied advisers contracted to multiple product suppliers
 - Tied advisers contracted to one product supplier
- Unscrambling eggs is still impossible
- There are over 10 200 FSPs and nearly 115 000 representatives

Life insurance: Selling, binding and upfront commission

- Weird distinction between advice and “selling”
- Also distinguishes financial planning, up-front product advice and ongoing product advice
- IFAs must offer advice on multiple products not whole-of-market
- “Further consultation and analysis is required how to set standards” – Indeed

Life insurance: Selling, binding and upfront commission

- Advice fee is paid by client as an agreed fee
- “Selling” and subsequent services paid by product supplier
- There will be caps or safe harbour benchmarks or tariff guidelines

Remuneration

- Proposed that only advice fees are paid for sale and servicing of investment products
- For life insurance risk business advice fee and commission (selling and ongoing service and maintenance)
- Combined business – who knows?
- Balance between as-and-when and up-front models
- Clawback remains

Remuneration

- “Further work will need to be undertaken”
- Increasing commission on legacy products will be capped
- “Equivalence of reward” for internal advisers to be reviewed despite nothing since 1998
- Equivalence on total cost-to-company approach
- Limits not applicable to “low-income” sector products

Remuneration proposals

Binder fees

- Enter into 2%
- Determine wordings, premiums and benefits 2%
- Settle claims (from fast-track to full service) 1% to 3%
- Underwriting managers uncapped and profit share allowed but must be reasonable and commensurate with a cost of performing the function
- Outsource fees must be reasonable and commensurate (“further work will need to be undertaken”)
- Outsource fees – Nil for binder holder; R100 per policy for intermediaries; and commensurate for the rest

Demarcation regulations

- Insurers and medical schemes both provide insurance
- Medical schemes are bound by community rating, open-enrolment and cross-subsidisation and must provide prescribed minimum benefits
- As a result medical schemes are expensive and to some unaffordable
- Concern about the young and healthy going to insurance

Demarcation regulations

- But open-enrolment, limited cross-subsidisation and non-cancellable products are contrary to insurance
- Also contrary to prudential requirements of insurers
- Lower income persons have to be accommodated and a constitutional right to access to healthcare services

Where to?

- Fair regulation is a Good Thing
- The product supplier is taking on huge burdens and becomes a quasi-regulator and quasi-intermediary
- Regulations must be based on quality not quantity
- It is becoming impossible to cope with the regulatory requirements or even to read them

Where to?

- The regulators also need to focus on outcomes for consumers
- Not moving the goalposts, they are changing them
- What happened to the outcomes based approach?
- We need briefer, clearer, fair laws Treating Everyone Fairly



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