



Fairness of Regulation to Market Intermediaries and its Global Trends

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Australian Regulation of Intermediaries

- Broad themes underpinning Australian regulation
- Need to consider client's interests
 - Future of Financial Advice (FOFA) requirements
 - Remuneration restrictions
 - Proposed distribution obligation
- Professional standards and competence
- Structure of operations
 - Potential separation of functions
 - Performing services from offshore
- Cost of doing business
 - Recovery of regulator costs
 - Obligations to provide information to regulators



Fairness of Regulation

- Sheer volume of regulatory change imposes cost
- Fairness factors in a regulatory context
 - Disproportionate compliance and direct costs
 - Inefficiencies for the intermediary
 - Structural costs
 - Lack of harmonisation with global initiatives
 - Data requests that do not benefit the intermediary or client



Act in Client's Best Interests

- Future of Financial Advice (FOFA)
 - Commenced July 2012 and mandatory July 2013
- Ban on conflicted remuneration structures
 - Includes commissions in certain circumstances
 - Exemption for general advice
 - Exemptions for brokers unrelated to product
- Duty to act in best interests of client
 - Applies to retail investors
- Obligation to renew agreements
- Annual fee disclosure statement



Act in Client's Best Interests

- Specific regulation of broker remuneration
 - Issue raised in Financial System Inquiry
 - Commission based remuneration based on volume and value
 - May be outside FOFA reforms
 - Government agreed in principle with review to follow
- Product Design and Distribution Obligation
 - Initially considered in the 2014 Financial System Inquiry
 - Requires distribution to target market
 - Noted AFMA Product Approval Principles
- Client Monies Reform
 - Protection from failure of intermediary



Professional Standards

- Key initiative of current Government
- Enhance competency of providers of financial services to retail investors
- New requirements:
 - All advisers to hold degree qualification by 2024
 - No grandfathering
 - Exam requirements
 - New advisers from 2019
 - Existing advisers by 2021
 - New advisers have professional year
 - Code of ethics and association membership



Structure of Operations

- ASIC recently reviewed potential conflicts
 - Sell –side research and corporate advisory
 - Proper handling of non-public information
 - Management of conflicts
 - Recommendations include
 - Physical separation between research and corporate advisory
 - Research remuneration not tied to advisory performance
 - Restrictions on staff allocations of securities
- Review also undertaken into market cleanliness
 - Tested pre-release price movements
 - Found improved cleanliness
 - Compared favourably in region and globally



Structure of Operations

- Review of foreign financial service providers (FFSP)
 - Providers of financial services to Australian wholesale clients from offshore
 - Designed to deal with FX and derivatives
- Current exemption from holding a licence where FFSP is in certain countries – Singapore, Hong Kong as well as US and other parts of Europe
- Comprehensive review of regime announced
 - Imposition of significant regulatory costs



Costs of Doing Business

- Industry funding model for ASIC
 - Seeks to recover \$240 million from industry
 - Commencement is 2017
 - For market participants, proposed fee per transaction and per message
 - Fee for providers of financial advice
 - Are costs imposed on those that create need for regulation?
- Regulator requests for information
 - FATCA/CRS
 - Third party reporting information

