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FOUR COMPLIANCE TIPS FOR OCTOBER 2012

The governing bodies of all financial services firms above "ma and pa" size should have a director (ideally non-executive but qualified) whose job is to challenge the business's view of compliance.

- When the Board receives compliance or Treating Customers Fairly reports, there must be a director with the task of correcting errors and challenging the company's approach. Otherwise, the parade of elegant reports and minutes will continue without the really major compliance issues being discussed in a knowledgeable way by the Board. The recent *SLOC* fine is a good example of this.
- The director concerned has to make him or herself available on an anonymous basis to receive information from staff of all levels and external advisers about the compliance risks that the business is taking.
- The regular gatherings of external consultants (including me) who advised major institutions not to sell PPI suggest that the whistleblowing channel needs to be opened up to external advisers. They tend to know things that others do not find out about organizations.

The risk profiling of individuals, for investment fact-finding purposes, has to be done in terms of the

- **length of time to invest;**
- **objective of investment;**
- **likely response to bad results ranging from failures to reach goals to total loss;**
- **types of risk that they do not want to run,**
- **willingness or otherwise to go above or below the levels of risk that they are generally happy to accept;**
- **knowledge and experience of the people concerned,**
- **different areas where advice is being given; and**
- **actual money to which the recommendation relates.**

- This exercise takes account of the fact that human beings do not fit into little boxes – at least for savings and investment purposes.
- LAUTRO in the early 1990s was emphasising timescale and objectives as key risk factors. The customer's attitude to these is central to much regulatory enforcement action and the various compliance crises since 1988. Customers may have no particular objectives, a fact which ought to be noted as well.
- People like me have totally different attitudes to the investment of money in different areas and made available for different reasons.

Product development processes need to be applied to existing products (and services) not just new ones. This involves checking target markets, stress testing to identify when the product could damage customers, preparing compliance marketing material, maintaining sound product governance and monitoring who is buying, from whom, why and with what consequences.

- The FSA has been cranking up its interest in product development in recent years in a desperate attempt to avoid a repetition of the payment protection insurance scandal.
- The current focus on product launches may hide the need to perform the same process repeatedly on existing products and service.
- I am running an Infoline one-day workshop on product development on 12 November.

Wholesale and retail financial services compliance are coming together.

- Financial services businesses in the wholesale markets, therefore, need to
  - analyse the services and products they deliver,
  - ensure that they meet reasonable expectations of market performers with whom they deal;
  - and provide services and carry out transactions with reasonable efficiency.

Have a compliant November

Adam Samuel