adam samuel
training and consulting services
Flat A, 4 Candover Street
London W1W 7DJ
Tel/fax 0207 323 9171,
Mobile 07900 248150
E-mail Adamsamuel@aol.com
Website www.adamsamuel.com

COMPLIANCE TIPS FOR AUGUST 2012

■ **Advisers and product providers - Be certain that you fully understand the assets contained in each of your products or those you recommend.**

■ Do you know what is in your absolute return or cash equivalent fund?

■ Does it match the description in your marketing material or suitability reports?

■ Advisers recommending absolute return funds often have the impression that there is some assurance that the proposed return will be achieved when it is not. Of course, anyone with exposure to Keydata or Arch Cru or unregulated collective investment schemes where assets have gone missing knows the pain that not understanding an underlying investment can cause. FOS recently published a decision finding against a bank for recommending the AIG enhanced fund to wealthy customers who did not want the risks implied by a holding of debt securities including corporate paper and sub-prime debt.

■ **Do not classify investors as low, medium and high in their attitude to investment performance.**

■ Investors do not fit into these boxes.

■ The length of time for the investment, investment objectives, the client's liquidity needs and his feelings about asset classes are all more relevant.

■ Barclays and its Morley funds problem was the classic example here. By trying to sell a fund to investors who gave the relevant answer to its risk question, Barclays missed the other needs of customers, such as liquidity, timescale and the mismatch between wishes and needs in this area. The huge fine and compensation bill led to Barclays' withdrawal from this market.

■ **Product manufacturers and advisers must understand the structure of the products that they are putting on the market.**

■ What the customer is or is not entitled to, the events that could make the product fail to meet expectations and their consequences for failure, the effect of early termination, any knock-out options, the tax and FSCS treatment are just a few items. They all need to be clearly disclosed in product literatures given to both distributors and clients. Advisers must communicate this material in suitability reports.

■ The Santander fine for failing to indicate accurately whether and the extent to which a structured product was covered by the FSCS is well known. Equally, structured products marketed by NDFA by concealing its Lehman counterparty bankrupted the company and cost its distributors huge compensation amounts.

■ **References to awards that could relate to investment performance (as opposed to service or administration) must carry a past performance warning and a mention of any previous years that the award was won in the previous five years – silly but true.**

■ The FSA has repeated this warning on a number of occasions in the last few years, warning in particular that its rules are media neutral.

■ To have the regulator publicly order a firm to remove all its award references from twitter, websites and e-mails would take some of the gloss off the award.