Four Compliance Tips

# FOUR COMPLIANCE TIPS FROM DECEMBER 2012

**The written conflicts-of-interest procedure that every firm must follow should contain a section devoted to conflicts that the firm and its people have already encountered. To make this happen, the compliance function should encourage everyone to provide it with examples from time to time.**

- New conflicts of interest come to light at every financial firm all the time. Many of them are hard to detect because they have never caused any visible damage. The compliance officer should explain to everyone that 1) it is perfectly respectable to encounter a conflict; 2) whoever detects one ought to tell someone else immediately and must tell the compliance function if it is not publicly known at the firm; and 3) the firm has a policy of recording the nature of each conflict along with a description of the steps that it has taken to end it.
- It is always a good idea for firms to discuss conflicts of interest openly. This makes their detection and subsequent management far easier.

**For the root-cause analysis of complaints to be successful, each firm must encourage operational staff and front-line complaint-handling staff to give their own views about the cause of every problem and its solution. If necessary, it should set up a confidential whistle-blowing e-mail line to a designated senior manager. This can make it easier to have a frank exchange of views.**

- Firms need to ask themselves why root-cause analysis has failed to prevent compliance and other service-related disasters in so many cases. One reason seems to be that the wrong people are doing the analysing. In other cases, junior members of staff fear reprisals from their line managers if they criticise them for any mishaps and this results in faulty analysis. In other cases, the simple absence of support from those line managers for the process is enough to compromise it.
- It is particularly important for staff at the lower levels to have a confidential way of "dishing the dirt" on their line managers in safety. Otherwise, errors and bad practices are likely to fester unchecked and the wrong people might spend years in the wrong jobs.

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**The Financial Services Act 2012 received Royal Assent in December and the Government still intends to bring it into force on April Fools' Day.**

- This may be as much a tip-off as a tip. Dual-regulated firms (banks, insurers and investment firms of systemic importance) need to be ready to handle two sets of regulators and navigate the different approved persons' requirements, reporting and other processes of the FCA and PRA.

- Firms will have to be careful not to throw out what they learnt under the previous regulatory regime and the statutory provisions that applied to it. First, there are bound to be transitional issues relating to acts that were done before 1 April. Secondly, the FCA, in particular, is going to be the FSA with an adjusted middle initial but with a need to show that credible deterrence and earlier intervention works.

**With the Retail Distribution Review provisions coming into force on New Year's Day, the advice sector now needs to prove its value to its clients and the greater public.**

- This means no un-researched obscure funds being recommended, no attempts to dodge the review rules by "clever" devices and no more automated solutions posing as whole of market independent advice. The FSA or FCA may not catch up with some of the more disreputable behaviour until it is too late. By then, though, the reputational damage will already be done.

- The Arch Cru business review is a salutary warning that compensation bills do have a habit of catching up with firms who are "not concentrating".

- From a positive viewpoint, the RDR presents an opportunity to evaluate and understand the worth of their proposition to their customers and charge accordingly.

**Have a compliant January and 2013 generally**

PS Many thanks to Chris Hamblin for his help editing this.

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