Guernsey Financial Services Commission

Industry Seminar – 20 October 2011

Presentation to Asset Managers and Stockbrokers – Retail Distribution Review

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I would like to take the opportunity this afternoon to update you on the work our Division has been undertaking in respect of the FSA's Retail Distribution Review:

The Commission, both the IBD and Insurance have been keeping an eye on the developments re the FSA's Retail Distribution Review, which is a key part of the FSA's consumer protection strategy. Its aim is to improve clarity for people looking to invest, raise the professional standards of advisers, and reduce the conflicts of interest which are found in commission based remuneration for adviser services. The RDR has been proposed in an effort to reduce the risks of significant bias from remuneration structures which, when combined with the highest professional qualifications, should limit the potential for misselling, enable more sustainable business and ultimately increase client confidence in the investment business sector. As you can see in themselves the outcome of the FSA's RDR are not overly controversial.

Guernsey is not wedded to any one jurisdiction when it comes to considering regulatory developments but given that many local businesses have strong links to UK investment product market, and this is confirmed from the results of our questionnaire, we recognise the impact of such changes to the UK regulatory environment.

As a first step we met a small number of interested firms via GIMSA, the outcome was the issue of a questionnaire to approx. 90 licensees (brokers, intermediaries, investment managers and advisers). The questionnaire was purely a fact find to assess the direct impact of our licensees and its clients by the introduction of the RDR and assisted the Commission in determining the outcome. The question concentrated on five aspects:

Introducing professional standards for investment licensees;

Independent and restricted advice;

Remuneration for investment advice;

Financial resources requirements;

Platforms.

The closing date for the responses was 7 October and I am pleased to advise that we received 36 responses, which included 8 licensees that confirmed they do not act for retail clients. Today I can give you a preliminary update on the results of the questionnaire:

Introducing professional standards for investment licensees

We do not currently impose any formal qualifications on individuals, although when assessing a licensee under schedule 4 to the Protection of Investors Law, both at the application stage and on an ongoing basis, we assess the competence, experience and professional qualifications of individuals.

The questionnaire confirmed that the majority of individuals hold an appropriate level 3 professional qualification but it is recognised that some gap filling would be required if the decision is taken to require mandatory level 4 qualifications.

Broadly all respondents were in favour of specified professional standards for individuals.

A number of respondents emphasised that a mandatory professional qualification system could only work hand in hand with a well regulated environment and the good reputation of the firm.

A small number of respondents were concerned that the imposition of mandatory professional qualifications would have a negative impact on attracting new recruits and in the short term a shortage of appropriately qualified staff resulting in the need for UK advisers to be employed.

Independent and restricted advice

The majority of respondents consider that they offer independent advice and the type of advice they offer is disclosed in their marketing literature.

Remuneration and restricted advice

The majority of respondents considered that 5.2.3(a) of the Licensee Rules adequately safeguard customers from unsuitable adviser charging but it is recognised that charging structures could be more transparent and easier to understand.

Some respondents were concerned that the imposition of a specific charging structure would stifle business, restrict flexibility and should be left to the market to set charges.

The logistical and practical problems with IT systems and UK not dealing with non-RDR compliant firms was highlighted by some respondents.

Financial Resources Requirements

Broadly respondents were content with the current requirements of Capital Adequacy Rules of minimum of £25,000 or 3x expenditure based requirement or lead division's requirement.

Platforms

A number of respondents have highlighted issues with commission payments that platforms currently pay post RDR and the need for greater transparency of platform charges.

Next steps

We will be working closely with industry and Commerce and Employment and in conjunction with our colleagues in our Insurance Division. A meeting has been scheduled for early November to discuss the findings of the questionnaire in more detail with a small working party consisting of interested licensees. Following that meeting we will meet with Commerce and Employment to consider the matter. Further meetings with Commerce and Employment and/or industry may be necessary. We will take the outcomes of those meetings to Commissioners in respect of any approach to be adopted.

Ombudsman

I can also provide you with a brief comment on the Ombudsman proposal. The Commission provided a response in September 2011 to the consultation paper issued by Commerce and Employment and await developments in this area.