

# Results are in: Financial Advice Industry Practice Report

And then....

Keep in mind that all recommendations made should be read in conjunction with the FOFA Reforms

ASIC is currently conducting a more targeted and reduced review of the next 30 largest AFS licensees

## Complaints handling

Consumers should be treated fairly and complainants dealt with reasonably and efficiently

Each complaint must be fully investigated and fair settlement of losses given

Licensees need to ensure adequate PI insurance; ASIC should be notified if insurance cannot be retained or renewed

ASIC was encouraged to see unresolved complaints being analysed for systemic issues

Level of complaints fell in 2009, but an increased number of unresolved complaints

Complaint handling resolutions were often not properly communicated with investors not having knowledge of them (which is an obligation)

Complaints 'handler' should be 'independent'

Complaints handling is a core licensee obligation - all licensees have room for improvement!

## Product and strategic advice

**Product Advice**

An average of 4 research houses were used

Some APLs were reviewed on ongoing basis; others annually

All licensees used and maintained large approved product list (median around 400)

Tendency to concentrate product recommendations

Reason for concentration must be explored and justified

ASIC encourages data to be available for all products on the list, not just the commonly recommended products - this was a shortcoming

Model portfolios most commonly used to allocate and diversify assets

Risk tolerance tools used to assess attitudes toward risk. ASIC: "good advisers will check the validity of the test by probing their clients' views during client interviews"

Advisers need to better educate clients about risk and return so expectations are realistic

Gearing was well supervised, but monitoring of double gearing needs improvement

**Client Strategies**

Must have oversight of any conflicts of interest

## Initial review

The review is based on responses received in 2010 in relation to industry practice in 2008-2009 financial year and changes may have been made

20 largest financial services licensees were reviewed, making up a total of 13,000 individual advisers and 4.6 million clients

**Who**

reviewed the effectiveness of compliance systems in place

**What**

to determine risks that licensees face as 'gatekeepers'

to ensure efficient and effective operation of financial markets to enable confidence and informed participation from investors and consumers

## Snapshot

Focus of recommendations:

- licensee business models
- training of advisers
- monitoring and supervision of advisers
- product and strategic advice
- complaints handling and compensation

## Monitoring and supervision of advisers

not many had penalties; licensees carried out annual audits on advisers and increased frequency if needed

Licensees expected to have tailored monitoring and supervision policy that reflect their risks

Motivation is to ensure advice is appropriate and clients are treated fairly

Licensees should retain copies of client records separately from advisers - documents must be accessible. Electronic OK

Licensees must check references of advisers who 'licence hop'

Screen and background check

Inconsistency amongst licensees in their approach

Supervision period encouraged

Licensees must report significant breaches of Corps Act to ASIC

Breaches must be identified and recorded

Inconsistency in reporting found between licensees

In 2009, unresolved breaches increased, but number reported decreased; ASIC encourages more resource allocation to breach reporting.

Licensee must show an adequate remediation plan

pre-vet advice of juniors

monitor exposure limits and concentrated portfolios

survey customer experience

facilitate peer review and support

have appropriate remuneration policies

methodology should reflect the licensee's risks

audits of random files

risk-classification within approved product lists

train and test new advisers

Licensees are the gatekeepers of financial advisers: they must be pro-active in monitoring and supervising

## Licensee business models

ASIC expects strong controls and procedures to address potential risks and licensee and consumer levels

Interactive tools on licensee websites

Webinars

Support for provision of pro bono advice

Remuneration based on volume of sales widespread, including ongoing and up-front commissions and volume rebates; remuneration from advice fees comparatively very small

Top 3 revenue streams for licensees linked to volume based sales paid by fund managers or product providers to licensee

Common to have products exclusive to licensees with consequent remuneration benefits

Share options or share purchase arrangements included in adviser remuneration arrangements

Buyer of last resort programs still in use (at least 1/3 of the licensees) and pose a conflict as payment often varies due to type of products recommended

Not all licensees could show effective management of conflicts

Conflicts of interest were present around licensee revenue and adviser remuneration

FOFA will dramatically change this area

Increased chance of inappropriate advice

Client complaints about exclusive product recommendation due to inability to transfer between licensees

Consequences of a concentrated product failing

Risks to licensees business due to conflicts:

Platforms with wrap structures - approx. 95% of funds are held in top 3 products

Approx 60% all funds are in top 3 retail super products

Concentration must be managed and risk mitigated

**Product concentration**

## Training of advisers

For more complex products, ASIC expects specific training on particular features and risks of these products before recommendations are made

ASIC endorsed those licensees who identified adviser training needs or skill gaps

internal and external training

legal and compliance training

set development days, compulsory training and CPD days

Training hours ranged from 10-40 and consisted of

ASIC is going to check this

Not all licensees said their advisers were RG146 compliant

Despite these positive results, ASIC is of the view that training standards need to be lifted in the industry

New advisers to be monitored and supervised by a supervisor for first year full time (or equivalent)

New and existing advisers who provide financial advice to retail clients on Tier 1 products to pass a national exam

Advisers to undertake a knowledge update review two years after certification and every 3 years after that

Central register of knowledge examination results to be made available to the public

Proposals underway:

**holley nethercote**  
commercial lawyers

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