

Professional Update

(June 2014)



Neil Hewitt

Chartered & Certified Financial Planner



@NeilHewitt7



neilhewitt7

“Restricted” financial advice

The prohibition against solicitors referring clients other than to independent financial advisers has been removed from the SRA Code of Conduct, but the Law Society has exhorted solicitors to ignore this change and to continue to refer clients only to independents. However, as the Financial Conduct Authority itself has admitted, confusion reigns over the definition of independence, which in the vocabulary of its predecessor, the FSA, relates as much to the scope of the service provided as to impartiality. Happily, the FCA now seems to be focusing on the real issue, which is whether “restricted” advisers (previously referred to as tied and multi-tied) are receiving inappropriate inducements from product providers and whether their salespeople are being incentivised to the detriment of client interests.

An end to silos

A conference presentation by Bobby Dhanjal Legal Services, the first financial plus legal ABS, provided valuable insight into the way in which a combined service can be made to work. Although Dhanjal’s legal and financial arms remain separate for regulatory purposes, members of both units receive joint training and work experience, so that each gains a better understanding of what the others do and a greater appreciation of the benefits of the rounded client service offered by their firm.

SRA beware!

Dhanjal described SRA’s ABS authorisation process, which took 18 months to complete, as “a nightmare”. By contrast, the Institute of Chartered Accountants in England and Wales expects that when it commences licensing ABSs in the late summer of 2014, the authorisation process will be completed in 8 weeks. The Institute is clearly aware of the business synergies, pointing out that accountants already provide wealth management, trust and estate planning services, and in some cases advice on wills, and that the addition of probate will enable them to provide the full range of wealth preservation services. Significantly, the Institute does not expect applications for authorisation to be confined to accountants.

Discretionary fund managers

Trustees are permitted by s15 of the Trustee Act to delegate their investment responsibilities to discretionary fund managers on the basis of guidance in the form of a policy statement. However, some managers have sought to pass back responsibility for the assessment of

investment risk to the trustees, whose personal opinions are irrelevant. Such attempts should be and are being resisted.

For more information please contact:

Ipswich: 01473 259201
Sanderson House, Museum Street, Ipswich, Suffolk, IP1 1HE
Neil Hewitt neil.hewitt@scruttonbland.co.uk
James Wright james.wright@scruttonbland.co.uk

Colchester: 01206 838400
820 The Crescent, Colchester Business Park, Colchester, Essex, CO4 9YQ
Gary Riches gary.riches@scruttonbland.co.uk
Grant Buchanan grant.buchanan@scruttonbland.co.uk

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