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FINANCIAL SERVICES REFORM LEGISLATION STAFF TRAINING WILL NEVER BE THE SAME

THE PROPOSED FINANCIAL SERVICES REFORM (FSR) LEGISLATION HAS FAR-REACHING RAMIFICATIONS FOR FINANCIAL SERVICES PROVIDERS. IT WILL HAVE A BIG IMPACT ON THE TRAINING AND EDUCATIONAL REQUIREMENTS FOR FINANCIAL INSTITUTION STAFF AT ALMOST ALL LEVELS.

No single piece of legislation has ever created such an immediate impact for financial service providers across such a wide gamut of their operations. This is especially so for banks, where thousands of staff may be affected. Without being adequately trained, staff will be prevented by law from dealing in and advising on a vast range of financial products.

Banks and large financial services organisations are beginning to address the monumental task. But many medium and small players may not be able to meet the compliance time frames, due to a lack of infrastructure to deliver cost effective training delivery.

The big challenge is to deliver training and education to meet the Australian Securities and Investments Commission's requirements. An emerging solution for both big and small institutions is "e-learning" and its ability to deliver end to end training programs.

What is the FSR?

The FSR culminates the Federal Government's legislative response to the 1996 Financial System Inquiry. This so-called Wallis inquiry recommended a single licensing regime for all sales, advice and dealing and the creation of a consistent and comparable product disclosure framework.

There is however some longer history to much of ASIC's training requirements, the development of which started some six years ago as part of the regulator's close examination of the financial planning industry.

According to ASIC's director of regulatory policy Malcolm Rogers, ASIC concluded the standard of professionalism was not what consumers had a right to expect from financial advisers.

ASIC decided to focus on lifting those standards, one measure being detailed training and education requirements.

According to the Federal Minister for Financial Services Joe Hockey, the FSR has a number of key objectives. They are to:

- > Facilitate the development of a financial services industry that is both globally competitive and consumer focused;
- > Eliminate the existing complex and fragmented regulatory framework that creates inefficiencies for financial service providers and confusion for consumers;
- > Create a consistent and comparable financial product disclosure regime; and
- > Allow consumers to understand and compare different financial products and evaluate financial advice. The FSR also enshrines complaint handling mechanisms.

The FSR laws are extremely extensive, at over 500 pages. It is not possible to detail any of the proposed legislation here, as all financial service providers will need to get their own advice on the legal ramifications of the proposed legislation. However, in summary, the major provisions will mean that:

- > A wide range of products is covered. These include derivatives, managed investments, general and life insurance products (other than health insurance), superannuation products, retirement savings accounts, deposit products, non cash facilities and some foreign exchange transactions;
- > A financial institution will need to be licensed by ASIC if it is carrying on a financial services business;
- > Advisers will be required to disclose information on any conflicts of interest; and
- > There will be a regime of disclosure throughout the life of a financial product: from point of sale disclosure, to confirmation of transactions, ongoing disclosure and periodic reporting.

Ramifications for financial institutions

The FSR means that financial service entities must provide appropriate ASIC authorised training and development, according to Craig Herbert, IBM's financial services sector director for Australia and New Zealand. They must also demonstrate ongoing training and development of their principals, licensees and representatives.

Training requirements will affect any entity involved in one or more of the following activities:

- > Providing financial product advice;
- > Dealing in financial products;
- > Making a mark in financial products;
- > Operating a registered managed investment scheme; and
- > Providing custodial or depository services.

Individuals who attend ASIC authorised training programs, plus appropriate ongoing education programs and demonstrate competence, are deemed to have met the regulator's requirements.

Licensees and principals will need to show that any of their representatives who advise about, deal in or sell financial products have met ASIC's requirements in one of the following methods:

- > Representatives undertake and complete an authorised ASIC program;
- > Representatives are assessed for prior knowledge, who have considerable experience, but few formal qualifications.
- > In all areas of knowledge, skill and integrity, it must be ensured that representatives have received education that meets ASIC requirements, have been individually assessed in ASIC authorised programs, have been trained at an education level that is appropriate for activity and client needs; and undertake continuous education.

ASIC has indicated a flexible view in the development and delivery of training, which can be offered through in-house or external providers. External providers can include registered training organisations (RTOs), standard assessment organisations (SAOs), or professional training associations which have training advisory committee accreditation.

Examples of acceptable delivery methods are through the traditional classroom, distance learning (eg: self-study), computer packages (CD-ROM), e-learning, assessment, case studies, traditional exam sessions and on the job evaluations.

Financial institutions will have a number of choices in delivering training and education. There are many considerations including, cost, effectiveness of the delivery mechanism, compliance with ASIC requirements, convenience for the institution and staff and best real time delivery.



Implementation difficulties

The FSR is creating training problems for banks because of ASIC's fairly stringent approach to its policy. While banks recognise the need for adequate staff education and training, they are uncertain about the appropriate levels of training and education for staff who advise a customer on a product, as opposed to giving merely factual information (which, according to ASIC's guidelines, is not advice).

This issue will no doubt become the subject of some debate. According to ANZ corporate lawyer Greg Drumm, staff who give either general or personal financial advice on basic banking and general insurance products need to have what is known as tier two training.

"For many other products, you need tier one training, which is basically diploma level qualification which embraces, for instance, how markets work," Drumm says.

The key problem, Drumm says, is that ASIC has applied the managed funds regime to the whole of the financial services industry, including branch banking. At the time of writing, the details of what is included in tier one and tier two products is still being finalised. But tier one products at this stage include travellers' cheques and term deposits of more than two years.

"If a staff member does not have a diploma level qualification, that person cannot give advice in relation to travellers cheques and term deposits," says Drumm.

"This in turn creates issues with staff who would not ordinarily have that qualification in serving customers over the counter, particularly in regional and rural branches."

In raising similar issues with ASIC, Malcolm Rogers admits that there are a few hot issues that are the subject of debate, but makes it clear that the core policy – an "accreditation based structure with an individual assessment alternative" – is here to stay.

In addition, there is going to be difficulty in drawing the divide between when someone is not giving advice, when someone is giving just general advice and when the person is giving personal financial advice. As a result of the uncertainty, banks will have to train people to higher levels than would otherwise be required, according to ANZ head of government relations Jane Nash.

This of course raises costs and increases pressure on hiring and retaining appropriate staff.

In addition, Nash says, the bank will have to change the way it discloses to customers. "The biggest impact will be on our deposit-type products because we will have to issue a product disclosure statement, a statement of advice and a financial services guide, all bits of paper that we have not supplied to customers before."

The e-learning solution

One of the primary business issues that financial institutions will face is demonstrating compliance with FSR training



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When full disclosure

New financial services reform laws will result in much more detailed documentation requirements for financial institutions, costing almost \$300 million, according to Zohdy Rateb.

The Federal Government's Financial Services Reform Bill – part of the Corporate Law Economic Reform Program – has been a long time coming. But the changes are not only imminent and very real, but will greatly impact on financial institutions' approach to documentation.

In terms of customer disclosure, the measures will require more extensive representations about the product, the person selling the product and support services such as advice. The new laws also attempt to standardise how a customer signs for a new product and the consumer's right to seek other information.

For financial institutions, the challenge is to manage this documentation process in an economically viable way. In Fuji Xerox's experience, the real challenge is not so much eliciting the data required, but understanding how the documents will be generated, stored and distributed.

Let's consider three main documents required as part of the legislation:

Financial Services Guide (FSG). This generally must be provided to the potential retail customer to inform them of the services provided. The FSG must be provided before the issuing or selling of the product. The required information will vary according to whether the provider is a financial services licensee or an authorised representative.

In general, the information should include the name and contact details of the institution, as well as the financial services it is licensed to provide. The FSG could prove to be a very lengthy document if multiple products are provided – and costly given the sale is not guaranteed at this stage.

policies. The overarching risk associated with neglecting this compliance could result in the removal of licences and the inability to conduct financial services businesses.

Financial institutions will have a number of choices in delivering training and education. There are many considerations including, cost, effectiveness of the delivery mechanism, compliance with ASIC requirements, convenience for the institution and staff and best real-time delivery.

With the growing impact of e-commerce, the concept of the e-learning is emerging as a core solution in satisfying these requirements. The ANZ's Nash says online education – which it has used in the past – will be an important option for the bank.

IBM's Herbert recognises the market need for complete enterprise learning solutions to meet the FSR training requirements.

"IBM has formed the IBM Mindspace Solutions group to meet total organisational learning needs by working with our clients to plan for, create, and deploy e-learning solutions," he says.

"The capabilities include the Lotus Learning Space family of products, offering self-paced, collaborative and real-time learning experiences, tracking and management capabilities and the seamless integration of course content and authoring tools."

IBM is also developing a learning portal in consortia with top talent in the training, delivery and financial services markets. The portal being considered is modular in design, so that financial services entities may choose the components that complement their business goals and objectives (eg: superannuation, insurance, financial planning).

IBM says the e-learning consortia portal will provide an integrated learning tool, pulling together e-learning, knowledge management and e-business.

This is particularly important for FSR training, as it includes ongoing requirements for modular training and assessment, monitoring of training activity and access to broad knowledge bases.

E-learning has the potential to deliver real benefits through cost savings, efficiency improvements and governance to demonstrate compliance capabilities.

Summary

The challenge of meeting educational and training compliance standards is now a very real one for the financial services industry. It is imperative that all the requirements and the solutions, including e learning, are fully considered and implemented. ■

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is too much disclosure

Other information to be contained will include information about payments or other benefits the company, or any of its directors or employees, will receive from the sale. Information about the relationship between the product issuer and the providing entity will also need to be included in the guide.

A typical large financial institution will have a number of distribution channels for each product, such as call centres, the internet, relationship managers, brokers and agents. There needs to be consistent and specific information provided in each case.

The Statement of Advice: This is a written statement of personal financial advice prepared for a client. Key elements are:

- > Before making a recommendation to an individual client, a financial service provider must do a needs analysis and assess a product's suitability for that client. This analysis must have a reasonable grounding, based on detailed information about the client.
- > The provider must disclose any benefits or payments which might reasonably be expected to be capable of influencing the service provider.
- > General advice can be given if, for example, the client has refused to give the required personal information. But the client must be warned the advice has been prepared without taking specific needs into account.

A standard way of storing, standardising, retrieving and auditing documents is needed at every step.

Product Disclosure Statement (PDS): This is designed to ensure prospective retail clients are able to make an informed decision about whether to buy the product or service on offer.

- > PDS for superannuation, investment life insurance and managed investment scheme products must be lodged with Australian Securities and Investments Commission before distribution to clients. It won't be registered, but will be subject to a 7 to 14 day exposure period.

- > The PDS contains information such as the source of the service provider's remuneration and any relationship with issuers of financial products, which might reasonably be expected to influence the service provider.
- > There are no time limits on the currency of a PDS. However, it must be either replaced or supplemented if it becomes materially false and misleading.
- > The PDS must be dated.

Typically, brokers and agents operate on a different commission basis. In each case, the variable data needs to be generated and included in the PDS. In the case of superannuation, investment, life insurance and managed investment scheme products, ASIC's requirements also have to be considered.

Costs

According to IFSA, complying with the requirements of the new laws will cost the industry a massive \$276 million. Given that unutilised, superannuation, master and wrap account business is expected to grow at around 7 per cent annually, document management costs will skyrocket further.

An added consequence relates to traditional direct mail campaigns. A **Statement of Advice** needs to be provided to these prospective customers, about whom you know very little.

In summary, the trick is to balance what the customer "reasonably" needs to know with the risk of information overload. The industry's experience with the Uniform Consumer Credit Code is that it erred too much on the side of caution, providing customers with too much useless information.

In fact some institutions provide the full credit code with their standard mortgage documentation – a very expensive proposition. Someone – the consumer – has to pay for this regulatory excess. ■