Financial Conduct Authority

Intervention on Financial Products and Services Concerning Financial Consumer Protection

The UK Financial Conduct Authority's experiences

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Early intervention

- FCA objectives are threefold: to secure an appropriate degree of protection for consumers, to protect and enhance the integrity of the UK financial system, and to promote effective competition in the interests of consumers.
- Historically, the FSA focused on disclosure requirements and on obtaining redress for consumers when they have been mis-sold a product.
- But bad product design can harm consumers, as well as bad sales practices.
- By intervening earlier, we can minimise the scope for poor consumer outcomes.

Intervention throughout a product's lifecycle

Product Governance	Product Intervention	Point-of-sale rules
Firms should place the interests of their customers at the centre of how their products are designed and brought to market	The FCA is ready to intervene as necessary to protect consumers, for example by imposing marketing restrictions, issuing guidance and alerts to firms, imposing targeted disclosure requirements for certain products, etc.	Consumers should receive the right information to make informed decisions; financial promotions must be clear, fair and not misleading, and advice must be suitable to the client's profile and objectives

Myth-buster:

'Product governance' means the design, operation, distribution and ongoing management of products over their lifecycle, **NOT** regulatory pre-approval or product licensing.

The FCA's experience…

… of issuing a warning

Traded Life Policy Investments (TLPIs)

- Complex products, often poorly managed/run, with inherent risks.
- Supervisory work found multiple problems in their design, operation and marketing to UK retail consumers.
- The FSA published guidance stating its view that TLPIs are unsuitable for the majority of retail investors in the UK, and strongly recommending these products should not be sold to ordinary retail investors (i.e. investors who are not sophisticated or high net worth).
- Intervention balanced the interests of existing and future consumers.

The FCA's experience…

… of restricting the promotion of a product

Unregulated Collective Investment Schemes (UCIS)

- Complex, speculative funds not subject to most of our rules. Typically pooled investments in unusual underlying assets e.g. crops, timber, property.
- FCA research found only 1 in 4 advised sales to retail investors was suitable and that most promotions breached UCIS marketing rules.
- Consulted with stakeholders and made rules restricting the promotion of these funds to sophisticated investors and high net worth individuals.
- Some close substitute funds (e.g. more 'vanilla' funds structured as special purpose vehicles) were excluded from scope of rules but are still subject to existing disclosure, promotion, sales and advice requirements.

The FCA's experience…

… of restricting promotion and sales of a product

Contingent Convertible Securities (CoCos)

- Complex, risky financial instruments that are unlikely to be suitable for retail investors.
- FCA used temporary product intervention powers to restrict their distribution.
- Temporary rules take effect without consultation and last for 12 months. Put in place to protect consumers while the FCA consults on a longer term solution.
- The temporary rules ban promotion and sales of CoCos to retail investors who are neither sophisticated nor high net worth.

Lessons learned

- The need for product intervention shows product governance and distribution standards are sometimes inadequate.
- Intervention to protect customers in the future may have implications for existing customers.
- Drafting interventions rules is a complicated process;
  - need to ensure the rules capture only the products being targeted (which may be diverse in structure and design) without creating loopholes - leads to rules often being necessarily complex.
  - rules must comply with national and international legislative requirements.
- Ways to workaround the intervention may be sought.

Thank you.

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