consumerprotectionpolicy

Attachments: Submission Intermediary Remuneration by Eddie Hobbs.pdf; MIFID II and IDD by Technical Guidance.pdf

Dear Sirs,

Attached is a paper which on October 4th I routed through the Department of Finance to the Central Bank in advance of the publication of CP 116 this week. It is welcome to see that the Central Bank is already mindful of the scope for regulation arbitrage and consumer damage and also sensitive to the very real risk of an advice gap which is already underway due to the added costs of onboarding and servicing at ever increasing compliance levels.

The scope for regulatory arbitrage is evidenced in the attached slide file from Technical Guidance which appeared after I had submitted the paper on Intermediary remuneration. The evidence of a growing advice gap is demonstrated by the increase in fees already being announced by MIFID firms directly quoting increased compliance. This is the vanguard. While process innovation will eventually assist it is increasingly clear that higher unit fixed costs in onboarding new clients will not help but alienate the small investor, who will be forced to deal with robots. Much like you cannot print your way to real economic growth, you cannot regulate your way to change if by doing so you require firms to make losses.

Quite how all this will play into auto-enrolment is something that ought to occupy the Dept of Finance if national savings are to improve. It is a simple statement of fact that advisory firms will, from 2018, start the process of filtering clients and will discontinue providing advice where the cost of compliance will lead to losses by doing so.

Many of the answers to the questions raised in CP 116 are argued in the first attachment. Rather than duplicate I've banded your Questions in CP 116 as below;

1. **Ref Q1-Q6** Enhanced Quality and No Detriment could exist side by side. Advisors ought to be able to demonstrate in particular how added value is given for example designing overall asset allocation at the client level and then readjusting as cycles change both economically and in the clients life. Adding value should also take account of relevant bespoke bulletins to clients giving updates on economics, finance and taxation relevant to financial planning. Being a client of an advisory firm ought to be quite different to being a customer of a product provider. Information blizzard is already reaching a point where consumers will move from confusion to non-participation, especially given that in a short window four major EU Directives are hitting affecting investments, insurance, credit and data. It will quickly reach a point where consumers will cease to cooperate in reading lengthy documents and in filling in forms, thus whatever is designed should be done in tandem with eliminating some other red tape and anything that is introduced should be screened for its cost / benefit.

2. **Q&-Q9** There is a very strong argument to separate out **Retention** for investment products so as to discourage churning. Most product ranges have sufficient width and depth to allow for free switches to cope with most situations. Poor retention is a marker for serial churners and churning is the most damaging, pernicious and common practice still.

3. **Q10-12** Higher commissions for arranging jumbo debt is extremely damaging and should be deemed an unresolvable Conflict Interest.
4. **Q13** seems reasonable

5. **Q14-Q16** A ban on upfront sales commission on investment products and pensions would eliminate this problem. Where you add further micro rules and added paperwork and record keeping the extra costs

will be borne by the consumer. In practice maintaining files on concurrent commissions at a client level to demonstrate that there is no bias is fine on paper but implementing it difficult.

6. **Q17-Q20** Maintaining evidence per transaction that proves no conflict of evidence firstly is technically near impossible since it requires one to disprove a negative and secondly will again add to burden for what gain? If consumers are required to be given a hard disclosure regime going beyond into philosophical arguments about conflicts of interest PER TRANSACTION is nuts.

7. **Q21-Q23** The definition of Independence has been set so high as to make put it at a level unattainable in practice except by new firms to the market because it excludes legacy earnings. It requires the firm to be completely free of the virus of commission payments which could be achieved over many years but impossible overnight. Surveys may show a preference for the general idea of Independence but try spelling it out. As a firm who've been offering fees for 21 years, there is a huge jump between warm feelings about independence as it is commonly understood and the action of writing a cheque from existing income or capital. This is a cultural matter. The definition proposed is set at a level I think far in excess of what consumers understand it to mean. Any fresh survey ought to ask the relevant question, "would you be prepared to pay fees at €250 to €400 per hour to your financial advisor for advice, administration, compliance and research on your behalf in order to get Independent advice as defined under MIFID II or are you happy to continue pay in the form of fund fees? As it is proposed Independent firms will be as rare as moving statues for quite some time.

8. **Q24-Q26** There is no barrier to extending Terms of Business to describe commission arrangements per product provider and require firms to confirm to consumers where pricing exceeds that outlined in the Terms of Business and this can be added to websites as a Download but by over-specifying you will add to information blizzard and make websites feel like reading the technical booklet that comes with a new telly. Few will do, they plug in and start with the remote control. No amount of added information will change that.

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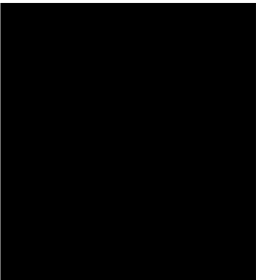

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