

Submission

Treatment of intermediaries under the new regime for the conduct of financial institutions

Your name and organisation

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Option 1: Amend definition of intermediary to focus on sales and distribution

Do you have any comments on Option 1: 'Amend definition of intermediary to focus on sales and distribution'?

1

We support Option 1's intention to ensure all sales and distribution activities are comprehensively captured. Specifically, we support regulatory oversight of insurance brokers given their significant role in the insurance industry.

2

Do you think the scope of the proposed definition of an intermediary is comprehensive enough to capture the variety of sales and distribution methods and to avoid gaps and risks of arbitrage?

Yes.

Option 2: Refine scope of who is covered as an agent

Do you have any comments on Option 2?

3

We support the intention that providers of advisory or other preparatory services to financial institutions, who are not involved in the financial institution's provision of services to specific customers, are not captured in the definition of agent. However we are unsure of the need to refine the scope of who is covered as an agent. As the definition of agent currently stands it appears to already exclude providers to institutions who do not have authority to act for the institution in respect to a specific customer.

4

Do you think Option 2 would adequately exclude advisory services (e.g. lawyers, accountants) and other service providers to the financial institution who are not involved, directly or indirectly, in providing any part of the financial institution's relevant service or associated products to consumers?

Yes

5

Do you think any explicit exclusions are needed for particular occupations or activities? If so, which ones, and why?

Nil

Objectives

6

Do you have any comments on the objectives regarding the treatment of intermediaries?

Nil

Option 3: Minimal changes to intermediaries obligations (remove 446M(1)(b) only)

7 Do you have any comments on Option 3: 'Minimal changes to intermediaries obligations'?

Nil

8 If Option 3 were pursued, do you think any other obligations in section 446M(1)(bb), (bc), (bd) or (bf) would need clarifying or amending? Why/why not?

Nil

Option 4: More significant changes to intermediaries obligations

9 Do you have any comments on Option 4: 'More significant changes to intermediaries obligations'?

Nil

10 What do you think the level of responsibility should be for financial institutions' oversight of intermediaries? For example, "*managing or supervising* the intermediary to ensure they support the financial institutions compliance with the fair conduct principle", or "*monitoring* whether the intermediary is supporting the financial institution's compliance with the fair conduct principle", or something else?

Nil

11 What standard do you think financial institutions should have to oversee their intermediaries to?

Nil

Option 5: Distinguish between FSLAA and non-FSLAA intermediaries

12 Do you have any comments on Option 5: 'Distinguish between FSLAA and non-FSLAA intermediaries'?

We agree this option would minimise the duplication of functions while still ensuring financial institutions take a greater role in overseeing non-FSLAA intermediaries (as they are not regulated under the FSLAA).

13 How far do you think financial institutions' oversight of FSLAA intermediaries under Option 5 should extend? For example, should it cover the general conduct of the intermediaries, or more narrowly on product performance and related consumer outcomes (or something else)?

Nil

Obligations in relation to employees and agents

14 Do you have any comments on the proposals regarding obligations in relation to employees and agents?

The proposed obligations appear reasonable.

15 Do you think there should be a distinction drawn between employees and agents? Why/why not?

No, as it is reasonable that financial institutions should have the same obligations to employees and agents (training, supervising etc) regarding fair conduct programmes. Employees and agents should operate under the same fair conduct expectations.

16 Do you think any amendments should be made to the obligations in section 446M(1) that would apply to employees and agents?

No.

17 Do you have any other comments or viable proposals?

Nil

Other comments

Nil
