

PORTFOLIO ADVISER

IMD advisers warned not to advise on direct investments

Added 11 February 2011 by Simon Danaher, Senior Online Reporter, Last Word Media



Advisers operating in Europe under the Insurance Mediation Directive (IMD) must ensure they only give advice on investments if they are within an insurance wrapper.

This is according to research conducted by the Federation of European Independent Financial Advisers, which looked at the regulatory authorisation required by IFAs advising on investments within an insurance wrapper in Europe.

Similar research, conducted by AES International and reviewed by the financial services regulation unit of international law firm MacFarlanes', drew the same conclusion, although it also warned anyone providing advice on investments which fall outside of unitised insurance products is likely to be operating illegally.

FEIFA CEO Paul Stanfield said his organisation decided to conduct the research because of escalating industry debate over whether or not an IFA giving advice on underlying investments within an insurance wrapper needed to be authorised under the Markets In Financial Instruments Directive (MiFID).

To conduct the research, which FEIFA is giving to its members for free but is also available to non-members for a one-off fee, the association consulted EU documents and two European regulators.

In making its conclusion, FEIFA also drew attention to the FSA's factsheet on passporting which states that investments falling within MiFID "include shares and collective investment schemes but not life policies (which fall under the scope of IMD)".

Stanfield said: "It was highly important for us to be able to either confirm that they [our members operating under the IMD] were working in a correct manner or else highlight that they were not.

“It was, of course, pleasing to conclude that they were functioning appropriately but the research also highlighted certain areas that all companies should take into account, to ensure that they are robust in a compliance sense.”

He added that if an IFA’s activity crosses into both areas then they must ensure they have both authorisations.

However, Stanfield also said, while ensuring you are properly regulated is of course a necessity, there may be an argument for waiting for the conclusion of current Europe-wide consultations before changing any existing, regulated processes. These include planned revisions to MiFID and the IMD (known colloquially as MiFID2 and IMD2) and a new initiative looking at the sale of Packaged Retail Investment Products (PRIPs), all of which are likely to make significant changes to the authorisations needed to advise on certain products.

Meanwhile, Sam Instone, managing director of AES International, whose research focused more heavily on what the IMD does not cover, warned: “Since 2007 investment advice has indisputably fallen under MiFID.

“Advisers claiming to be ‘independent’ or whole of market surely obviously need to be authorised to give investment advice, pension advice, advice in investment funds and not merely mediate the products of four or five Dublin based insurers. I would have thought that these could more accurately be described as tied insurance sales agents than IFAs.”

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