



Standard Life fine: FSA's biggest ever fine for financial promotions failures

Jan 22 2010 [Roland Natrass](#)

In a further sign that the Financial Services Authority is significantly stepping up its enforcement efforts, the regulator has fined [Standard Life Assurance Limited](#) £2.45m for serious breaches of principle [three](#) (management and control) and principle seven (communications with clients) of the FSA's Principles for Businesses. The fine relates to [Standard Life](#)'s failure to ensure that marketing material was clear, fair and not misleading and to ensure there were proper systems and controls in place concerning the production of marketing material and investigation of concerns raised.

Significance of the case

The fine is significant for a number of reasons, not least of which is that it is the largest fine ever imposed on a firm for failings that relate solely to marketing and financial promotions. Even when compared to all enforcement actions that involve a breach of principle seven, the fine is the second largest, trailing only the £7m fine imposed against [Alliance and Leicester](#) in 2008, although that case involved other issues of a more serious nature. It is also the first time that the FSA has brought an action against a firm in connection with failings that involve marketing material for a fund. The facts of the case and the broader message from the FSA should, therefore, be given attention by all firms involved in producing and distributing financial services marketing material, particularly those firms involved with promoting funds.

Findings

The FSA found that marketing material issued in relation to [Standard Life](#)'s Pension Sterling Fund was not clear, fair and not misleading. Marketing literature that [Standard Life](#) issued referred to the fund being wholly invested in cash but over time the majority of the fund was invested in floating rate notes. Additionally, a fact sheet produced by a third-party data producer included a pie chart which showed that 100 per cent of the fund was invested in cash. These issues were **compounded** by a lack of systems and controls needed to properly investigate concerns about the marketing material. This meant that when complaints and concerns were made about the marketing material the reviews that were conducted were too narrow and failed to properly identify the failings.

The FSA considered these breaches to be serious for a number of reasons. There were almost 100,000 retail consumers invested in the fund, with investments valued at £1.92bn as at November 2008. The fund was primarily intended for investment of pensions and, therefore, the capital security of investments was of great importance. Instead the fund was exposed to unexpected market fluctuations, which in one instance caused a loss of almost five per cent of the value of the fund, approximately £100m, in one day. The FSA also considered the breach associated with inaccurate marketing to have been aggravated by [Standard Life](#)'s failure to promptly identify and remedy the failings which had been brought to its attention.

In determining the relevant fine, the FSA did, however, recognise a number of active steps that [Standard Life](#) took to mitigate the impact of the failings. [Standard Life](#) compensated its customers £102.7m for the loss suffered as a result of the fall in the unit price. This is a major step comparable to one undertaken by Lloyds TSB on its Extra Income and Growth Plan in 2003, when £98m compensation was paid. The firm also reviewed all existing and historic marketing material in relation to the fund, and contacted all customers to determine whether further compensation may be appropriate. It commissioned an external report into the issues that arose in relation to the fund and how the firm should improve its systems and controls. [Standard Life](#) was also recognised for having brought the issues to the attention of the FSA and having fully cooperated with them.


Lessons

All firms, particularly those involved with promoting funds, should consider the lessons to be learned from this case. Firms involved in making financial promotions need an individual or a team responsible for reviewing the marketing and promotional material and signing off the final version. That individual or team needs to have appropriate

expertise and an adequate understanding of the product, its features, investment objectives, risks and drawbacks, target audience and time commitment required.

One of the problems identified in this case was that there were no adequate processes in place to enable effective communication between different business areas — the business operated in distinct silos. Not having a joined-up approach to the distribution of a financial product, from design through to marketing and then post-sales activities, is a recipe for disaster with any financial product. Firms need to have mechanisms in place to ensure different parts of the business communicate with each other about the content of marketing material. Adequate records need to be made of the reviews that were conducted, in particular, evidencing a consideration of whether the material is clear, fair and not misleading in all respects. This case particularly highlights the need to ensure the content of financial promotions accurately reflects the strategy and objectives of the product concerned.

Effective systems to identify, escalate and manage failings are crucial, as it is possible the FSA may not have taken any enforcement action at all had **Standard Life** properly escalated and acted on the failings. Instead it missed these and subsequent opportunities to adequately deal with the problems. It is these failings that present probably the strongest lesson to firms — getting your financial promotions wrong is one thing, missing several opportunities to get them right is of much greater concern to the regulator. Once a complete picture of failings have been identified these should be promptly communicated to senior managers for further action. The final step should always be to determine how and where compliance with marketing standards broke down in the first place and ensure effective systems are implemented for the future.



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