

ASIC focused on MA conflicts

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When it comes to managed accounts, the corporate regulator has a specific focus on in-house products but avoiding a conflict of interest is easy, according to The Fold Legal.

Speaking at an IMAP webinar, Simon Carrodus, solicitor director at The Fold Legal, said the Australian Securities and Investments Commission (ASIC) had shifted its focus to management of conflicts broadly.

“It’s something that advisers need to be aware, that when looking at an in-house managed account, ASIC will look at it with a greater level of scrutiny,” Carrodus said.

Carrodus said it was important to make sure there were measures in place that ensured the potential conflict does not result in any client detriment.

“The obligation where you’re considering recommending an in-house managed account is the obligation under section 961J [of the *Corporations Act*] to prioritise the client’s interests above the adviser or licensee’s interest and of course Standard 3 of the FASEA [Financial Adviser Standards and Ethics Authority] code of ethics,” Carrodus said.

“This is a focus area for ASIC, if you went back three to five years, the focus area was still fees-for-no-service and conflicted remuneration.

“Fees-for-no-service is almost a legacy issue now and annual renewal and annual opt-in has essentially killed that issue.

“Conflicted remuneration there will always be bits and pieces of potential conflict, but the industry has got its head around that; grandfathering is gone now.”

Carrodus said if an adviser struggled to articulate a client benefit, the advice had to be re-assessed.

“It shouldn’t be hard, I’ve had clients say ‘how do I recommend my managed account when all these clients are in industry funds (for example) and mine is way too expensive’ well, you’re probably asking the wrong question and have to go back and look at the structure of the managed account – price, performance and other features and benefits and think about is it competitive and are these the sort clients you should be targeting,” Carrodus said.