Regulating Culture – the carrot or the stick

Garth Stanish
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Aspects of culture

• Culture drives outcomes: it is how things get done
• Culture trumps compliance
• Regulation is a driver of culture; but participants must take ultimate responsibility
• Too much focus on structure, not enough on people
• B = F (P, E)
Aspects of culture

- Social Network Analysis
- Actions speak louder than works; what you walk past you accept
- White noise
- Culture is not monolithic
- Breaking Bad Effect
FMA: Our culture

• Created to solve problem of a generally inchoate regime with no certainty for either investors or participants

• Key aims:
  • Strengthen public trust in financial markets
  • Promote innovation
  • Support growth at NZ’s capital markets
  • Balance costs and benefits of regulation

• Regulation must serve a purpose
• FMA and Participants must be able to have genuine dialogue about issues
The conduct lens

**Communication**
- Listen to customers
- Help customers understand products and services
- Ensure good communication across whole organisation.

**Capability**
- Have the skills and experience to provide the right products and services
- Meet professional standards of care
- Seek continuous improvements through training.

**Conflict**
- Serve business and customer interests
- Disclose and discuss conflicts
- Explain related party arrangements.

**Control**
- Maintain systems to support good conduct
- Seek out continuous improvement
- Effectively manage complaints and disputes transparently.

**Culture**
- Act in the interests of customers
- Treat customers honestly and fairly
- Conduct expectations communicated clearly by leaders and understood by staff
- Address poor conduct; recognise and reward good conduct.
Our approach

- How does the board and senior management scale good results and not repeat bad ones? (‘lessons learned’)
- Who gets praised, promoted, $?
- Who gets penalised, pushed out?

- What comes through the ‘wiring’?
- Does the board and senior management see it?
- What do they do with it?
- Does it contribute to good outcomes (and avoid poor ones)?

- Licensing ‘hygiene’ (for licensed)
- Is there appropriate ‘wiring’ – processes, standards, systems, etc. – to show formal intent about good customer outcomes?
Picking through the wreckage – how the Fletcher Building disaster unfolded

JENNY RUTH • FRIDAY AUGUST 18, 2017 • 4

An eerie calm settled over Fletcher Building after it shocked the market with its profit downgrade in March – at least in public.

The $110 million hole the company had just discovered in its annual earnings came less than a month after the company had reported its first-half results.

Fletcher Building had assured the investment community in February that the small problem in its construction division announced then was just a

Fletcher Building chairman Sir Ralph Norris with the chief executive Mark Selwyn are now in a awkward relationship.
How to stay off the radar

Good conduct

• Comprehensive guidance in A guide to the FMA’s view of conduct
• Key component – customer focus

Pay heed to guidance that is available

• compliance advice
• warning letters
• judicial precedent
• FADC decisions

If things go wrong, consider self-reporting

Follow the trends

• Media releases
• FMA guidance
The Regulator and You

- Understand the Regulator’s focus and priorities
- Explain yourself
- Be proactive
- Don’t be fluffy
- Understand the consequences
- Be open and transparent
- Rage is a sub-optimal response to regulatory concern