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Assessing compensation:

Class action claims due to financial advisor negligence

Abstract

In a previous article, Axiom outlined a number of alternate approaches that have been used in assessing compensation for negligent financial advice where the objective of the compensation is to restore the investor to the position they would have been in had the advice not been acted upon.

In this article, Axiom outlines the application of the ‘profit and loss method’ to the unique circumstances of thousands of members of a class action via a single sophisticated financial model.

Individual compensation

Every investor has their own circumstances, including:

- The date of their initial investment;
- The type of investment purchased;
- The number of units purchased;
- The purchase price; and
- The source of funds drawn on to purchase the units.

It is also likely that along the investment horizon investors may:

- Redeem units;
- Refinance any loans obtained to fund their investment;
- Purchase further units or units in a different fund; and/or
- Break with their co-investor, such in the case of a divorce.

A difficulty faced in class actions can be that each class member requires their own individual damages calculation due to their different set of circumstances

As a result, every investor requires a loss calculation specific to the investor. Undertaking a manual calculation for even one investor can be a lengthy exercise. Undertaking calculations for potentially thousands of investors involved in a class action would seem an insurmountable challenge.

Notwithstanding these difficulties, Axiom was asked to do just this for thousands of investors.

Loss compensation model

Axiom built a loss compensation model that was both sophisticated enough to deal with all the possible individual circumstances discussed above yet as transparent as the profit and loss method discussed in our previous newsletter.

The benefit of being able to calculate each investor's individual loss automatically lies not only in the time and costs saved, but in the analysis that can be undertaken of the aggregate results and connecting these to the profile information of individuals in the class population.

Having built the loss compensation model and assessed losses both individually and on an aggregate basis, Axiom was able to answer any number of queries the legal team raised, such as:

- How many investors used funds from particular banks;

- Which bank provided the most funding to investors;
- What the total interest paid to particular banks was;
- Which advisor provided the advice that resulted in the most losses borne by investors;
- What the total fees, charges or commission paid were;
- Whether there was a relationship between age and the extent of the loss incurred;
- Whether losses for investors of a particular age were greater than for other age groups; and
- What the salary or income of the investors was.

By building a loss compensation model it was also possible to undertake various scenario analyses across the class population. For example, what the outcome would have been had the investor redeemed the investment on a certain date instead of the date they actually redeemed the investment.

Conclusion

Axiom's investor loss compensation model has been a powerful tool. It produces an individual compensation model for each member of the class, reflecting their personal circumstances whilst also allowing for the comprehensive analysis of the class as a whole.

Axiom has developed a model from which compensation calculations can be prepared.

This model is able to incorporate each class member's circumstances.

The model facilitates analysis on factors within populations and sub-populations and saves significant time and costs.