

# FINANCIAL ADVISERS, REGULATION AND MORALITY

## - Allistar Walker

03/06/11

All Financial Advisers will have had to meet set legislated standards by 1<sup>st</sup> July this year, or they cannot practice. This legislation applies to mortgage brokers, insurance brokers, investment advisers and anyone else purporting to give financial advice, make investment transactions or providing a financial planning service. The Financial Services Act 2008 aims at restoring public confidence in the industry and promoting that practice by subjecting Advisers to higher standards of competency and accountability and supervision by the Securities Commission.

All Financial Service providers must be registered on a public register which can be viewed at the Companies Office on [www.business.govt.nz](http://www.business.govt.nz) (search under FSPR) and they must belong to a Disputes Resolution Scheme, which must be disclosed to you by your financial services provider, along with details of the procedure should you have a complaint.

While all this is designed to ensure greater protections are in place for the public, who now have a better ability to obtain monetary remedies for any wrongs or errors on the part of the Financial Adviser, the Government cannot legislate morality.

Research by Dr June Smith, in an Australian study, as part of a PhD thesis defined the 10 most common forms of unethical conduct in financial advice as:

1. Misleading statements as to performance, product features or security and business reputations;
2. Use of client funds for own purposes;
3. Advice did not meet client objectives or circumstances and had no reasonable basis;
4. Lack of financial product research/inadequate understanding or financial product recommended;
5. Failure to disclose remuneration benefits and conflicts of interest;
6. Failure to disclose information relevant to client decision;
7. Inadequate written advice or failure to tailor advice to client;
8. Inadequate explanation and examination of risks associated with investment;
9. Inadequate explanation of the risks associated with a financial product; and
10. Failure to follow internal procedures and policies of the licensee (dealer group).

These 10 items are the very basis of providing advice before hatching and despatching product. I would hope that all NZ advisers are somewhat better. In the past the industry has been guilty of a 'sell, sell' approach. We all remember the AMP or Prudential salesman, or hiding in the basement when the insurance salesman called. Then they were tagged as 'salesmen'. However an evolution has been going on in the industry for many years and top, long lived advisers are passionate about the quality of advice and service they give. They will also recognise that they can do better and I believe this recent legislation and the testing and revision that has been required will enhance many independent advisory practices.

Smith's study also highlighted a pattern (in Australia) of over-reliance on template Statements of Advice not tailored to a client's specific circumstance. You, as a client, a unique individual, must ensure that your Adviser is in tune with you and has your interests at heart – not theirs.

An adviser should be someone you would feel comfortable with at the family BBQ. That way you will feel comfortable discussing your goals and personal situation so that an adviser can tailor his/her advice to you as the unique individual.

Stronger regulations with the will to impose them will make a stronger and better equipped Advisory industry, which will be of benefit to the public. However, notwithstanding these changes, significant and complex ethical issues related to conflicts of interest will remain, albeit in a reduced or different form. Regulatory responses ... "may not always resolve ethical conduct and behaviour and a more comprehensive solution may be required..." according to Smith. Banks, for instance, only sell their own product and a number of broker/advisers particularly in the insurance area, have a preference for one provider because they are tied to that provider by agreement to deliver the lions share of their business to them, in return for higher commission payments. You as the consumer are entitled to see what commissions and fees are earned by your adviser and who they do business with.

New Zealand still has an under-insurance problem when gauged against other OECD countries. Registered Financial Advisers or Authorised Financial Advisers are now better placed than ever to provide a discerning public with properly structured written advice. The public in return have a robust independent channel to lodge complaints or suspicions and can be assured that these will be dealt with in a timely manner. There are substantial fines and other remedies that can be imposed on a Financial Adviser should they not comply with legislation, or breach ethical boundaries.

Our free guide to selecting a Financial Adviser and what you should expect will be available from the beginning of July. These can be pre-ordered by contacting us as below.

*Care has been taken to ensure that any information is accurate. No liability is accepted for its use. Enquiries are welcome. Allistar Walker is a Registered Financial Adviser and Senior Fellow of Financial Services Institute of Australasia. His full disclosure is available free at [www.mortgagehelp.co.nz](http://www.mortgagehelp.co.nz) or he can be contacted at 410 6023 and [enquiry@mortgagehelp.co.nz](mailto:enquiry@mortgagehelp.co.nz).*