

SUBMISSION ON THE FINANCIAL ADVISERS ACT 2008 AND THE FINANCIAL SERVICE PROVIDERS ACT 2008

1. The legislation has a fatal flaw. By permitting and encouraging the use of the word 'adviser' the public are being misled. Seriously misled. The average customer of a financial adviser is led to believe the person giving the 'advice' is their team when that is often not the reality. They are usually intent on selling the person described as the client, product.
2. Except for the few genuine financial advisers who are truly independent, the practitioners of the financial advising business are not entering into the relationship with the actual intent of 'advising'; they intend to close a sale. That is how they make their living.
3. SELLING IS THE ANTITHESIS OF ADVICE. **See the attached paper I prepared regarding the 2012 draft consultation document.**
4. I also attach a set of disclosure documents in use in the industry. No criticism is meant of the 'adviser' using it - he is applying the rules. My criticism is of the rules.
 - To cover all the requirements of the rules, the document is a prolix legal drafted document.
 - The disclosure is effective IF read and understood, however, it fails to spell out the relationship is not adviser/client but is a selling relationship.

This failure is a failure of the legislation as the legislation empowers the use of the term 'adviser' when the relationship is far from the language used. It is the selling of a specific product (or range of supplier's products). The relationship is legally vendor/purchaser, not adviser/client.

5. The best nomenclature is SALES REPRESENTATIVE/AGENT. The client immediately understands the relationship with the person in front of them, ie the person, is selling them something.
6. The remedy is comparatively simple:
 - i) Ban the use of the word *adviser* unless the adviser is truly independent, ie paid for by the client and NOT associated to any selling, research provider who are in the business of selling specific product portfolios.
 - ii) Require the accurate disclosure of the relationship by requiring the use of nomenclatures such as *SALES AGENT FOR..*
 - iii) The upfront accurate disclosure of the relationship puts paid to the inherent deceptive inference that they are entering the relationship of adviser/client.
 - iv) Whilst it is true the selling process involves the selection of the most appropriate product for the customer from the seller's range of products, the relationship is clearly set up as the selection of the specified product range.
7. **REDACTED TEXT**