Dear Sir/Madam

RE: Financial Adviser Regulation

Our broking and financial advisory firm, founded in 1985, employs five authorised advisers and six admin and compliance staff, based in two branches, one in each island.

We have several thousand clients, many of whom select a broking service only, but we also have class service clients, personalised clients and wholesale clients. (Financial Advice services) Personally, I own 51% of our company, I founded it in 1985, and have had 43 years working in capital markets, the last 32 as a broker and an adviser.

Before your proposed changes become law I ask you to consider the following**:**

1) The law now, and the proposed laws, do not acknowledge and differentiate the various distinctly different roles played by people currently referred to as financial advisers.

2) Capital markets assess their most useful people as those having experience, knowledge and integrity, none of which are acquired in academia.

3) Client satisfaction and client loyalty are the essential objectives of advisers, and reflect the value of an adviser.

In my view the complex, and confusing laws designed to protect investors might be more effective if the laws required:

a) Advisers to display knowledge, experience and integrity measured by the absence of client disputes, by the adherence to all laws, by a visible mentoring plan for new advisers, and by warranty from other leading market participants who interact, monitored by regulators.

b) A focus on transparency, accountability (capital), measured by regulatory inspectors.

c) An education programme aimed at investors defining the four distinctly different groups that call themselves financial advisers.

These groups are:

i) Investment Advisers, who focus on individual securities, attend analyst briefings, and have special knowledge of the equities or debt instruments they sell. Historically these people were called sharebrokers. Because many advisers, including ours, now operate through the NZX platform via NZX members BUT are NOT NZX members, these people are now barred from using the words ''sharebroker'' or ''stockbroker''. Investment Adviser precisely describes their work.

ii) Financial Planners interface with retail clients, assess their objectives and risk tolerance, and then suggest asset allocation, and recommend particular fund managers or funds within a manager. The financial planner does not select securities, does not research the individual securities and is not accountable for the performance of the securities. Rather he/she is accountable for the asset allocation, to meet investor objectives, and is accountable for the selection of the fund manager. The fund manager is in theory accountable for selecting securities. Financial planners are palpably

NOT investment advisers. They rarely, if ever, have a balance sheet to cover any liability for misdeeds.

iii) Representatives (sales people) who sell the offerings of fund managers, banks or other institutions. These people are protected from financial accountability by the balance sheet of their employers. They should be and usually are, trained to sell accurately. Accountability for investment errors rests with their employer.

iv) Discretionary managers of personal investor money. This group largely comprises advisers within larger sharebroking companies who behave like fund managers, using the authority given to them to invest and trade the personal portfolios of usually wholesale investors.
These people could be defined as Personal Investment Managers. Some hundreds of these people would reside within broking firms. Those that operate from independent small firms are licensed by the regulators and should continue to be. (Currently known as DIMs)

I submit the new regulations should use the terms:

Investment Advisers – those who do not invest but advise
Financial Planners – those who refer investors to fund managers but do assess objectives, risk tolerance etc.
Representatives – sales people for banks etc.
Personal Investment Managers – (PIMs) who manage portfolios

Fund managers are already covered by the Financial Markets Conduct Act.

Once those definitions are understood, all that is needed are the following principles and a simplified code:

Client first
Transparency
Accountability (Balance sheet)
Appropriate knowledge
Competence (Licensing)
Supervision by a regulator

KiwiSaver clients (of whom we have none) could be advised by planners, advisers or representatives.

As a long-term participant, with a successful business, with a low-cost model that appears to meet the needs of several thousand clients, I submit that any changes to be made should incorporate the above suggestions, leaving all four categories to be subject to the code, but correctly identified for the services they are licensed to offer.

Yours faithfully

CJ Lee AFA
Managing Director
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