

What type of advice is needed?

Tony Vidler | Strictly Business | 03 July 2012

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This heading is THE question being asked within the depths of the Financial Markets Authority's guidance note on the Sale and Distribution of KiwiSaver.

Released in late June 2012, the guidance note is not only a useful insight into the regulator's thinking, it provides clarity in a number of areas confusing many advisers. It raises a number of very good questions, and a number of useful examples are given as to how the FMA currently interprets the laws and regulations. Anybody involved in the distribution of financial services products, or the provision of financial advice, should be interested in reading it (see the link below).

Within the 22 pages of good guidance is a section that is the focus of this article. "What type of advice is needed" is the question posed in Section D (page 14). Following that, there are four clauses (41–44 inclusive) that are suggestive.

A couple of points are made by the regulator that suggest getting people into a Kiwisaver scheme is generally considered beneficial, and is pretty low level "advice". This is not to suggest that there is no skill or technical competency required by an adviser at this point, nor that the usual obligations of a professional adviser in terms of client care are waived. It is acknowledged that there are general benefits to consumers from joining KiwiSaver – and further, that simple advice processes enabling consumers to access the scheme with some guidance on portfolio selection, together with an understanding of the scheme's limitations, is appropriate. (My words, not the FMA's).

However, the next couple of points in this same section draw a distinct line in the sand for advisers. Once clients have joined KiwiSaver – involving a relatively low level of advice – the worry for the regulator is that, in time, this decision will subsequently require more complex advice.

Can we eat our cake – and keep it too? Or, in the context (a word that gets used a lot in this document as it flavours the regulatory thinking) of the question at issue – should an RFA be able to give personal advice on KiwiSaver as well as the AFA?

This is where things will undoubtedly get a little provocative... because the answer might actually be "yes".

If it is recognised within regulations that there is a difference between putting the Kiwisaver scheme in place for a consumer and then advising upon that KiwiSaver scheme on an ongoing basis, why couldn't an RFA be allowed to help consumers get into KiwiSaver in the first place? Certainly, the ongoing management and provision of advice to the KiwiSaver client in subsequent years requires the involvement of an AFA (if only because that is the standard established within the law).

The very point made within the guidance note is there are a series of important decisions to be made by a consumer upon joining KiwiSaver. These decisions are mostly centred on understanding the benefits in relation to the risks and limitations of the scheme. Let's be honest here. Most RFA's were doing exactly this in 2009 and 2010 – and, doing it well. Generally speaking, it is well within their arena of skill and competency.

Once a consumer has become a member of KiwiSaver, though, there are new possible decisions to be made in managing that account appropriately for many years to come. This phase IS likely to be substantially more complex, with changing taxation and scheme rules, entrance and exit of scheme providers, changes in client circumstances and, ultimately, increasing portfolios that will require some careful planning in relation to other estate issues. That sounds like the AFA's role doesn't it?

There does appear to be scope for some rethinking on how the provision of advice might work (for KiwiSaver anyway).

Think about the questions raised by the FMA, as there are some very good ones.

My own conclusion is a simple one – I can see the place for both RFAs and AFAs in advising on KiwiSaver. The point of separation is the initial joining of a KiwiSaver scheme. Once consumers have KiwiSaver, it makes sense for that to be the domain of those authorised to provide full personalised advice on it, or an investment planning service. But, let every RFA help New Zealander's get into KiwiSaver. That has to be good for everyone in the country.

It should be noted by all that this guidance note was issued in conjunction with a request for submissions from the industry on the questions raised. If you have an opinion on how KiwiSaver should be distributed and where advice fits into that, submit your opinion to those who matter by 16 July 2012.

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