The ABCs of the Financial Advisers Act

The Financial Advisers Act came into effect on 10 October 2002 and all financial institutions are expected to comply with all its requirements from 1 April 2003, so what can consumers expect from financial advisers and their representatives? What are the likely benefits to consumers, and what are the things that they should look out for?

In this, the first of a series looking at the Financial Advisers Act from the consumer's point of view, David Choo talks about the 'A' in FAA – in other words, the advisers.

Guess Who?

One of these people is a financial adviser, one is an exempt financial adviser, one is a licensed financial adviser, another is an independent financial adviser and yet another is a financial adviser representative. The question is, how can you tell them apart?

By David Choo

Any company that provides financial advice falls under the ambit of the new Financial Advisers Act, which controls Singapore's financial services sector. Financial advice includes a host of activities like advising, reporting, writing, publicising, recommending and selling, so the Act affects banks, stockbroking firms, life insurance companies, fund managers and companies distributing life insurance, equities, foreign exchange, futures and other investment products.

Financial planning is not explicitly included in the FAA, but if a planner puts forward anything that can be construed as advice then they would be liable for a breach of the FAA, so, practically speaking, no one can realistically be a financial planner without falling under the FAA.

What counts as an exempt financial adviser?

Consumers will not see the word 'exempt' on any of the name cards used by a company's employees.

If exempt companies follow the requirements of disclosure closely they may decide to mention this in their disclosure to consumers before conducting any business transactions, so as to avoid any misunderstandings.

The term "exempt financial adviser" primarily refers to a company that is already licensed as a bank, stockbroker, life insurance broker or general insurance broker under another Act, and so does not need to apply for a Financial Advisers Licence under the Financial Advisers Act. These companies are permitted to do financial advisory business and have to comply with all the regulations except for the obtaining of a separate FA licence.

At present, these exempt companies can recruit their representatives, or sales people, without having to submit individual applications to the Monetary Authority of Singapore (MAS) for approval. These new

Players in the Financial Adviser Market

Company	Exempt or licensed?	Must distribute products of at least four manufacturers	Representatives must be licensed by the MAS	Must give recommendation on reasonable basis	Must give fair and objective advice
Life insurance	Exempt	No	No	Yes	No
Banks	Exempt	No	No	Yes	No
Stockbroking firm	Exempt	No	No	Yes	No
General insurance broker	Exempt	No	No	Yes	No
Licensed FA					
i) Independent FA	Licensed	Yes	Yes	Yes	Yes
ii) FA	Licensed	No	Yes	Yes	No

representatives have to meet certain minimum criteria with regard to age, academic qualifications and examinations, but their applications are not processed by the MAS, although the Authority does check that all representatives are "fit and proper", something commonly described as the 'character criterion'. This means that those who may not be able to obtain a representative licence from a licensed financial adviser firm (we will get to this definition later) may succeed in being recruited by exempt companies.

What is a licensed financial adviser?

A licensed financial adviser is a company that has obtained a licence from the MAS to provide financial advice and distribute products. Companies have to meet certain requirements like paid-up capital, continuing financial solvency, required qualifications and experience for the principal officer, as well as complying with training and competency requirements.

Most of the licensed financial advisers were previously life insurance brokers, and the MAS offers a choice to a licensed FA firm as to whether to offer life insurance alone, or collective investment schemes like unit trusts as well. Any firm wishing to deal with futures and foreign exchange has to comply with higher paid-up capital rules.

Representatives, or sales people, engaged by licensed financial advisers have to meet industry requirements and also be approved by the MAS. Their licence is renewable every three years, assuming that they still comply

FAs are allowed to distribute the products of one life insurance company without offering a choice. Only an IFA is required to offer choices and provide fair and objective advice and recommendations.

with all the requirements. Consumers need to check out exactly what licensed FAs can provide, as if they are looking for the convenience of a one-stop shop, only certain financial advisory firms will qualify.

What is an independent financial adviser?

Consumers should note that there is no requirement for an exempt financial adviser or a licensed financial adviser to be independent. But what does that mean? The MAS defines independence very strictly – a firm and its representatives must be objective and able to meet their clients' interests fairly. They must not only offer choices but must demonstrate that they are not biased towards any product because of factors like shareholding, agreements with product manufacturers, quotas, commissions and other remuneration, including gifts. Those who claim to be independent and who fail to meet the strict criteria will face fines.

Financial advisory firms that make no claim to be independent are not required to meet certain strict standards like the minimum number of product manufacturers they work with (four life insurance companies in the case of life insurance, for example) and the "fair and objective" advice and recommendation of products.

All firms and representatives, however, need to have a "reasonable basis" for their advice and recommendations. This is defined in the regulations, and the FA representative is to take into account the client's objectives and ensure that advice and recommendations are reasonably suitable for the client in all circumstances, taking into account all the information that has been obtained from the client. It should ensure that its advice and recommendations are based on thorough analysis and take into account alternative options.

Notice that a "reasonable basis" only requires the FA to recommend suitable products or a combination of products, so a financial adviser does not have to offer a choice or comparable products from different product manufacturers. Representatives of life insurance companies, banks, stockbroking firms and even licensed FAs are allowed to distribute the products of one life insurance company without offering a choice.

Only an IFA is required to offer choices *and* provide fair and objective advice and recommendations. In other words the IFA has to not only offer suitable products but demonstrate that the final product recommendation is both fair and objective.

What we have described are the "official" terms mentioned in the FAA, its Regulations and its Notices. Consumers are likely to encounter a bewildering array of name cards carrying designations like Financial Services Adviser, Financial Services Consultant, Financial Consultant and Financial Manager. You have to ask whether the person is a tied agent of a life insurance company, a representative of an exempt financial adviser, an exempt general insurance broker or a representative of a licensed FA. If they are representing a licensed financial adviser, then you should check whether they are independent or not. Si

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