



# In search of information that is adequate, relevant and material



*By Anton Swanepoel, Director: Products and Training at PSG Konsult, author of Invest like a Pro, Retire like a Pro and Protect your business like a Pro*

Conduct, that provide significant practical guidelines pertaining to FAIS compliance.

With this article I aim to point out some of the clues contained in the Act, starting with its main objectives, which are to ensure that:

- All financial services providers are properly qualified to render specific financial advisory and intermediary services;
- Consumers of financial services are in a position to make well informed decisions; and
- Clients' financial needs regarding financial products are appropriately and suitably satisfied.

Yet another clue is contained in section 16 (2) of the Act, which state that financial services providers will be obliged to make: (a) adequate disclosures of relevant, material information..., and (b) keep adequate and appropriate records.

As an industry we have spent too much time on selling skills in the past, which I believe contributed a great deal to our cur-

rent status as a "profession". It is for this reason that the guidelines contained in FAIS is so vital if we want to establish financial planning as a true profession.

As financial and investment planners we have learnt over the years that only the relevant material (essential) elements in any plan or strategy will bring success.

Therefore, the inclusion of section 16 of the Act is to be applauded as it removes much of the "open-ended" liability feared by most financial planners.

If one understands the main objectives of the Act and have the desire to comply, it is my contention that if:

- A planner is qualified (fit & proper) to render advice in a specific field, and
- he/she discloses to any client only the relevant, material information,
- that is aimed at satisfying the financial needs of the client,
- which is adequate and puts the client in a position to make a well-informed decision, and
- he/she maintains these records...

Our provider would comply with the

In my view, the legislator should be congratulated with the principles and guidelines contained in the Financial Advisory and Intermediary Services Act, 2002 (FAIS). The main reason for this statement is that I have come to realise that if one spends enough time in trying to understand the main objectives of the Act, there are more than enough clues, especially in the Codes of

main features (more than 80%) of the Act.

Our next practical step seems to be to identify what information would meet the requirements of being adequate, relevant and material. The rest of the article deals with an attempt to identify the relevant, material information that will be necessary to enable clients to make well informed decisions.

The best place to start is, and always will be, to identify the need(s) and objective(s) of the client. This not only gives meaning to any plan, but it is also a specific requirement in terms of the Act as section 8 (1) of the General Code of Conduct (inter alia), specifically states that:

"A provider ... must, prior to providing a client with advice-

(a) take reasonable steps to obtain from the client appropriate and available information regarding the client's financial situation, financial product experience and objectives to enable the provider to provide the client with appropriate advice."

Suffice to say:

"Without a purpose, nothing should be done"- Marcus Aurelius.

The second element that will be necessary to consider would be any specific requirements, limitations or exclusions that may apply to the client's specific needs. For every client it will be vital to know whether there are any specific conditions that may apply to his/her circumstances, as it will have a specific impact on whether the solution that is offered will be appropriate or not.

On the other hand, if there are specific exclusions or limitations as a result of taxation, legislation or product specifications and the client did not know about it, it would prevent the client from being in a position to make an informed decision. Therefore, after the objective(s) have been determined, it will be necessary to deal with specific requirements of the client and/or possible exemptions, which may require a different solution than the client had in mind initially.

*Once again  
FAIS must take  
credit for being  
instrumental  
in focussing  
our minds at  
the needs of  
our clients first  
and then  
towards seeking  
appropriate  
products to  
meet their  
needs.*

Only after these two relevant, material elements have been considered can one truly look for the appropriate financial/investment product solution. Historically, product salespeople were very good in taking a product to their clients and selling it to them without making sure that the first two elements were in place first. Once again FAIS must take credit for being instrumental in focussing our minds at the needs of our clients first and then towards seeking appropriate products to meet their needs.

In view of the above, I would argue that the first three relevant, material elements that will be vital to disclose would be:

- Identifying the client's objective(s) after obtaining all the relevant material information from the client,
- Identifying and explaining appropriate investment benchmarks in order to keep

the score and discussing specific key features that will help to make the objective as clear as it could possibly be. When dealing with any other financial planning subject other than investments, it will be important to discuss and agree upon any specific requirements or exclusions that may apply in the client's specific circumstances, and

- Explaining the key features and essential elements of the solution or product.

Some people may argue that this would be enough, but I would say that there are two more relevant material disclosures required to meet the requirement of having communicated all the relevant, material information that will be necessary for any client to make a well informed decision, which are:

- The financial services provider's service model; and
- What the advice and service model is going to cost the client.

In summary, I believe that if any financial planner has —

- communicated the objective;
- explained the specific benchmark or specific requirements;
- presented the material features of the solution;
- shared the service model; and
- showed what it will cost the client,

all the relevant, material information have been dealt with and if he/she took reasonable steps to ensure that the client understands the advice as illustrated above, then the client should be in a position to make an informed decision."

I further believe that if we, as a profession can only focus on being innovative and continuously improve in these five areas, it will be instrumental in enhancing the integrity of the industry. If we succeed in that respect, we will be amazed at how quickly we will earn the respect of all consumers.