

Question No: 010
Reference: Page 54
Committee Member: Mr Falinski

Question:

Mr FALINSKI: If it assists, Danielle, if you go to their website, it's among the first things that you will see: that they are 'Australia's leading independent asset consultant'. It's not like they're hiding the word independent.

Ms Press: Sorry, Mr Falinski, but an asset consultant is quite different to a financial adviser.

Mr FALINSKI: Okay. So if financial advisers call themselves independent asset consultants, that's okay?

Ms Press: It depends on to whom they're providing advice—

Mr FALINSKI: So now we're back to this idea that, as long as they're not providing advice to retail investors, that's okay.

Ms Press: No, that is actually not what I said, Mr Falinski. But, at the end of the day, an asset consultant has a certain role in the financial services industry which is quite different from a financial adviser. For the independent requirements, as far as I'm aware in law, they are obtained on the financial advice space not on an asset consultant space.

Mr FALINSKI: So you would see it as a defence if a financial planner said, 'No; I was just giving an asset consultation'?

Ms Press: Not if they were giving financial advice; no.

Mr FALINSKI: I'm going to put a question on notice asking you to specify for me, on ASIC's behalf, what the difference is between asset consultation and financial advice.

Ms Press: I would be very happy to take that question on notice, because it is quite a different set of circumstances for which it's provided.

Mr FALINSKI: Please, tell us what those are; if you can inform the committee now, that would be great.

CHAIR: Given the time, I think we might have that question on notice. That would be helpful, thank you, Ms Press.

Mr FALINSKI: That's fine; thank you.

Answer:

Legal definition

'Financial product advice' is a broad concept that is defined in s766B of the *Corporations Act 2001* (Corporations Act). It is 'a recommendation or a statement of opinion, or a report of either of those things, that:

- (a) is intended to influence a person or persons in making a decision in relation to a particular financial product or class of financial products, or an interest in a particular financial product or class of financial products; or
- (b) could reasonably be regarded as being intended to have such an influence.'

Providing financial product advice to retail clients requires the adviser to comply with certain conduct and disclosure obligations under Pt 7.7 and Div 2 of Pt 7.7A of the Corporations Act, such as providing a Financial Services Guide for general and personal advice, providing a

Statement of Advice for personal advice, and acting in the client's best interests (for personal advice). These obligations do not apply to advice given to wholesale clients.

'Asset consultation' is not a legally defined concept in the corporations legislation.

Industry usage

Generally, the financial services industry uses the term 'financial advice' when individuals are given advice on their personal finances.

The term 'asset consultation' is commonly understood in the financial services industry to mean advice given to institutions regarding how assets could be invested on behalf of others to attain an investment objective. A person who provides asset consultation – an asset consultant – would ordinarily be engaged by a wealth manager, such as a superannuation fund trustee. An asset consultant would advise on matters such as the merits of possible investment strategies and asset allocations, and the selection of service providers, such as investment managers.