



The FINANCE column in SA Family Practice features articles for sound personal and practice financial advice. Kindly send any suggestions for future topics to: douw@medpharm.co.za, fax (012) 664 6276 or Finance column SAFF, PO Box 14804, Lyttelton, 0157.



Germa Beukes

B.Com (Law) LLB MBA;
Certificate in Compliance Management
Managing Director & Compliance
Officer : TenFOUR Consulting (Pty) Ltd

Correspondence to:
Germa@tenfour.co.za

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HOW THE FAIS ACT PROTECTS YOU

Standards of Financial Advice and the Code of Conduct

The Financial Advisory and Intermediary Services (FAIS) Act became fully effective on Thursday, September 30, 2004 and for the first time, gives you protection against poor advice.

The legislation, however, does not mean that people with ill-intent will not try to mislead you. You still have an obligation to protect yourself, and to ensure that the person or institution giving you advice or selling you a financial product is properly licensed and adheres to the requirements of the law.

STANDARDS YOU SHOULD EXPECT FROM YOUR BROKER/ FINANCIAL ADVISER

Financial services must at all times be provided honestly, fairly, with due skill, care and diligence. It should be in your best interest, and promote the integrity of the financial services industry.

- Advice or information should:
 - Be factually correct;
 - Be presented in understandable language, avoiding uncertainty or confusion and not be misleading;
 - Be adequate and appropriate to the particular financial service, taking into account your level of knowledge;
 - Be provided timeously so you have sufficient time to make an informed decision about any proposed transaction; and
 - Be provided with full details of all amounts, charges, fees, remuneration and monetary obligations.
- Your broker should also tell you about any interest he or she may have in a product or service, including:
 - The existence of any personal interest in any service you receive (such as commissions and/or fees), or of any circumstance which gives rise to an actual or potential conflict of interest. If they are in a position where their interests conflict with yours, they must take all reasonable steps to ensure you receive fair treatment.
 - The non-cash incentives, such as luxury foreign trips or invitations to rugby test matches, they may be offered by another FSP, a product supplier or any other person. These incentives may be considered unacceptable, because they "could be viewed as a potential conflict of interest".

An FSP (Financial Services Provider) must keep proper records of any transactions conducted on your behalf.

- An FSP or a representative of an FSP is not allowed to deal in any financial product for his or her own benefit, account or interest where such a transaction is based upon advance knowledge of pending transactions with you or anyone else, or on any non-public information which could be expected to affect a product's price.
- An FSP must have procedures and systems in place to:
 - Record any verbal and/or written communications you receive. Records must be kept for five years after the termination of any product involved or after you have received advice.
 - Store and, on request, retrieve the records and any other documentation involving you.
- An FSP is not allowed to disclose any confidential information about you to anyone else unless you give your written consent, or if disclosure of the information is required in the public interest or under any law.

THE CODE OF CONDUCT

Financial advice should be appropriate to your personal circumstances and your broker has to follow a proper procedure to ensure that the advice he or she provides is in your best interest. You need to provide your full co-operation to enable your broker to provide you with the best advice.

Your broker has to:

- Take reasonable steps to obtain from you appropriate and available information regarding your financial situation, your experience with financial products to establish how financially astute you are, and your financial objectives to ensure you are provided with the best advice;
- Analyse the information obtained from you;
- Identify the financial product or products that will be appropriate to your risk profile and your financial needs, and give you a reasonable and appropriate general explanation of the nature and material terms of the product, and give you any information that will enable you to make an informed decision.

Next month: Deciding on an appropriate product.