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The Premier Association for
Financial Practitioners (Singapore)[®]

LEGAL ISSUES &

PITFALLS FOR

FINANCIAL

PRACTITIONERS IN

SINGAPORE

Singapore has established itself as a reputable global financial hub, known for its strong regulatory framework & structure. With a strong regulatory framework, it gives investors and businesses the confidence & credibility to do business with Singapore. However, simultaneously, it also poses some challenges for financial practitioners with strict legislation as financial practitioners are inevitably exposed to certain legal issues & pitfalls. In this article, we will examine and look at some legal issues & pitfalls that financial practitioner may face during their course of work.

1. REGULATOR

In Singapore, the financial services industry is regulated by the Monetary Authority of Singapore (MAS). Financial practitioners are also governed by various legislation such as the Financial Advisors Act (FAA Act), notices & guidelines that MAS may have. These includes the Insurance Act, Personal Data Protection Act (PDPA) etc. In the course of work, financial practitioners may unknowingly violate certain legislation that may lead them to face legal issues.

For example, a financial practitioner may have gathered some personal information, data and document regarding their clients' prospects during their course of work. Data and information that are carelessly stored may result in financial practitioner being guilty of violating the PDPA. As reported in a Straits Time article (1) , "An Ex-financial adviser fined for data breach".

With digitalization and advanced technology, financial practitioners are also more susceptible to cyber security threats pertaining to client's information, and may get in a predicament with the PDPA if they are not careful.

With reference to the MAS Guideline on Fit & Proper criteria (FSG-G01) (2) , one of the fit & proper criteria stated that the financial practitioner should posses "honesty, integrity and reputation", whereby he/she should not be guilty of "any investigations or disciplinary proceedings or been issued a warning or reprimand by MAS, any other regulatory authority".

In this aspect, financial practitioner should be wary of such issues & their implications as well.

In an article by Today's Newspaper (3), it was reported that an ex insurance agent was charged for "causing hurt by a negligent act, causing grievous hurt by a negligent act, and reckless or dangerous driving". Due to this incident, he probably has violated the fit & proper guidelines, and as such is not fit to be a financial practitioner and was terminated.

While the examples provided above are due to the negligence of an individual who is not aware with the legislation and committed a careless mistake, there are also cases whereby financial practitioners commit mistakes on free will.

In such cases, financial practitioners could be hypothetically tempted or pressured to fulfill their sales requirement.

Unfortunately, they were guilty of being unethical and had seriously violated the legislation.



According to a Today article (4), it was reported that “MAS takes unprecedented action against six insurance agents for mis-selling of investment products” and “the individuals’ misconduct included forgery, improper switching of policies, and providing financial advice without due consideration of clients’ financial situation”. This exhibits the consequence of legal & disciplinary action being faced by financial practitioner as a result of doing the wrong things and infringing the regulations.

We have seen that financial practitioners may get into legal issues & pitfalls with the regulators knowingly or unknowingly. To avoid such pitfalls, financial practitioners should be aware and familiar with the various legislation pertaining to our business, and always double check when in doubt. We should always be reminded to do the right thing; to conduct our business in a rightful & ethical manner compliantly; and to conduct ourselves properly and not infringing any laws or regulation in our personal life as well.

2. FIRMS

In Singapore, financial practitioners are either representatives of an insurance company or financial advisory firm, while some could be employees of banks or financial institution. With this arrangement, there is potential legal pitfalls as financial practitioners may potentially get into legal issues with the firms that they are representing or working for. Although it is not often, it may arise in a situation of alleged breach of contract due to conflict of interest or fraud.

For instance, we see that “two insurance agents were charged on Tuesday (Jan 22) with conspiring to cheat insurer Manulife Singapore using falsified insurance claims amounting to more than S\$14,000” according to a Channel NewsAsia report (5). In this case, the insurance company had sued their representative for fraud. In other cases, we may see that financial practitioners could get into legal issues with their firm due to conflict of interest. This was the case of an agency leader who was sued by his former employer for taking a team of financial practitioners to a new company by making “various representations and remarks” as reported in a Straits Times Article (6).

To avoid such pitfalls, financial practitioners should always conduct themselves and their business ethically and with integrity. They should also be familiar with the various contractual terms & obligations in their contract agreement with the insurance companies or financial advisory firms that they are representing to minimize potential of legal complication of breach of contractual duties when conflict of interest situation arises.

Notes

- 1- <https://www.straitstimes.com/singapore/ex-financial-adviser-fined-for-data-breach>
- 2- http://www.mas.gov.sg/~media/resource/legislation_guidelines/insurance/guidelines/Guidelines%20on%20Fit%20and%20Proper%20Criteria%20October%202018%20Guideline%20No%20FSG01.pdf
- 3- <https://www.todayonline.com/singapore/mercedes-driver-who-ploughed-four-pedestrians-pleads-guilty-drink-driving-charge>
- 4- <https://www.todayonline.com/singapore/mas-issues-prohibition-orders-against-6-individuals-mis-selling-investment-products>
- 5- <https://www.channelnewsasia.com/news/singapore/chiropractor-insurance-agents-manulife-charged-false-claims-11152316>
- 6- <https://www.straitstimes.com/singapore/courts-crime/prudential-sues-ex-exec-over-resignations>
- 7- <https://www.straitstimes.com/singapore/father-and-son-sue-bank-over-trading-losses>
- 8- <https://www.straitstimes.com/business/about-the-aia-insurance-case>

3. WITH THE CLIENTS

Just like doctors, lawyers and accountant - financial practitioners are professional individuals, and clients' may have certain higher expectation for the work that financial practitioners exhibit.

When client experiences a less stellar work, financial practitioners are exposed to the legal pitfalls of being sued by their clients.

In some cases, it could be due to an error & omission by financial practitioner due to oversight or negligence. An example of this was a case of a relationship manager being sued by clients for misleading & manipulating clients in doing certain trades according to a Straits Time report (7).

In other cases, it is due to fraud when financial practitioner are being sued by client such as when an Indonesian couple suing an ex AIA agent for fraud and forgery by selling bogus insurance policies as reported in a Straits Time article(8).

To avoid such pitfalls, financial practitioners should strive to be always competent, caring & compliant in the course of business, so as to build lasting good relationship while providing quality services & advice to clients.

Financial practitioners should also purchase professional indemnity insurance to protect themselves and mitigate such risk as well.

The protection provided by the IFPAS Financial Practitioners Professional Indemnity (FPPI) programme is unique in that it covers financial planners throughout their careers and beyond. Whether as an independent planner, a tied agent or a retired agent or planner, the policy provides the broadest possible protection.

In conclusion, I hope this article draws our attention to be wary and careful of such legal pitfalls and issues. While there are challenges & difficulties due to all these legal issues & pitfalls, we should not be discouraged.

When in doubt or faced with such legal issues & pitfalls, financial practitioners should always seek legal advice & counsel. By conducting ourselves right and not infringing any laws or regulation in both our business & personal life; striving to be a competent, caring & compliant advisor for our client in the course of our work, we can then emerge better & stronger to overcome all these difficulties and challenges of these legal issues & pitfalls.

ABOUT THE AUTHOR



Tan Seng Chuan is a licensed financial practitioner and an active IFPAS member.

He holds the ChFC®/S, CLU®/S, IBFA and AEPP designations.

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