



Ethics & compliance

– a relationship for the times

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I've observed for a number of years now that deliberation on the relationship between ethics and compliance in the financial services industry often results in a conclusion that, while being distinct from each other, they are essentially transposable areas. That is, if compliance requirements are taken care of, then so too are ethical considerations.

A broader discussion on this area is now important as the line between compliance and ethics is becoming more and more blurred by an increasing tension to ensure the right thing has been done for the client.

But is such blurring a good or bad thing for the industry's image? The emerging debate about whether they are indeed the same or if it is in fact desirable they be perceived as such – at least in the mind of the community – is opening up some ground for reflection in the industry.

Traditionally, compliance has meant 'what you can't do'. John Bacon, the FPA's compliance manager, has a more official definition: "Compliance in the context of professional financial planning tends to mean compliance with statute law, predominantly chapter 7 of the *Corporations Act*."

As for the term ethics, it's 'what you should do'. A fuller definition, however, is that ethics is a process involving our personal principles and values that we use to judge the morals of a situation. It's also about the ultimate choice of action in relation to such predicaments, and also how we feel about the impact of such action on others or on ourselves. Our overall motivation for doing certain things and how, being human, we deal with correcting our mistakes, are also important aspects of ethics. Doesn't sound too similar to compliance, but let's press on.

Recently, I had the opportunity to gain a lot of feedback from advisers on what they see as issues of an ethical nature in financial planning and I'll share some of

this with you in a future column. But for our purposes here, a great deal of the comment has centred on situations that involve potential violation of compliance (not, by definition, ethical) standards, and on conflict between duties – usually between the duty to the client and that to employer or licensee.

Realistically, it's highly unlikely an adviser can meaningfully focus on ethical conduct without knowing that the legal and regulatory obligations that come with a professional role in this business are in place. Only then can they be sure that any action taken will be underpinned by a firm foundation of technical knowledge and legality, and hence use the self-assurance that delivers.

Moreover, the blur between ethics and compliance is understandable because in becoming compliant we also have to apply personal qualities such as diligence, intelligence and self-discipline – all of which could feed our sense of personal integrity. That said, while such integrity is a cornerstone of an ethical profile, it's no guarantee as to the veracity of intent.

It's not appropriate or useful to stand our ground on where a line – vague or otherwise – is drawn. In practice, many advisers perceive in compliance the presence of conflict that will, in the end, create ethical dilemmas for them personally. And any additional confusion is not helped when many firms promote their company's values and principles – in effect, their ethics – by contextualising these in the promotion of their adherence to obligations of compliance, as commendable as this is.

So, while things may be generally confused (and confusing), there are perhaps a couple of thoughts to consider, which may help to further the cause of a user-friendly resolution – or inform a choice for the industry. On one side, if we fail to amplify the melding of the ethical-based objectives of compliance, we may miss opportunities to reinforce the credibility the industry is building as a

result of its response to these testing times.

On the other side of the argument, if ethics and compliance remain effectively separate, the risk will remain that regulatory processes may be used (either consciously or unknowingly) to mask or deflect attention from unethical courses of action.

Therefore, perhaps it is better to make a distinction between ethics and compliance if for no other reason than to ensure advisers and their teams are secure and obvious in their integrity. After all, compliance is about the role of the financial adviser, and ethics relates to the person who performs that role.

So why make the distinction, and what's it worth? Like the measure of value of most things in this business, it goes back to the client relationship. In business, we are respected if we act professionally and carry out tasks with efficiency and clarity in well-communicated terms that relate to what clients are looking for – the best financial outcomes and peace of mind.

Clients, on the other hand, will develop conviction in financial advice based on their experience beyond the considerable expertise and reassuring paper work they're paying for. The move from respect to trust (and hence loyalty) is due to how integrity, as the human face of compliance, is manifested in the scheme of things in the financial planning industry.

Despite legal regulation or institutional policy, morality cannot be legislated any more than trust can be bought. So into whose hands could the baton of reflection on all this now be placed? The leaders are cast from a willingness to meet the challenges of creating a robust business culture that enshrines the importance of ethics. This, along with inclusive and reinforcing strategies, will result in a total benefit to employees, organisations and society. But to be clear and responsible about how to use the blended potential of ethics and compliance, we all need to first relate to and respect each one on its own substantial merit. «

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