

As

ASSET REVIEW

Editor: Leng Yeow
Deputy editor: Zoe Fielding
Managing director: Kate Spencer
Production editor: Judy Wilkinson
Chief subeditor: Sheila Browne
Contributors: Jennifer Cross, Jane Gardiner, Ivan Hemens, Peter Wilson, Adrian Oosthuizen, Rob Ryan, Carolyn Swanson
Design: Angelique Vu
Picture editor: Tamara Voninski
Contributors: Barrie Dunstan, John Owen, Jim Starkpool
Online producer: Andrew Ballard

EDITORIAL OFFICES

Level One: Level One, One Darling Island Rd, Pyrmont, NSW 2009
Phone: (02) 9282 2822 **Fax:** (02) 9282 3137
Level Two: Level Two, 469 La Trobe Street, Melbourne 3000
Phone: (03) 9603 3888 **Fax:** (03) 9670 4329

ADVERTISING

Advertising director:
Phone: Branenager (02) 9282 3981
National advertising manager (Investment titles):
Phone: Cottier (02) 9282 2208
SA advertising manager (Investment titles):
Phone: Riley (02) 9282 2242
Media account manager: Meaghan Hughes (03) 9603 3355
Media: O'Keefe Media - Craig Mueller (08) 8363 4555
Phone: JF Media - Michael Petersen (07) 3876 9299
Phone: O'Keefe Media - Jamie O'Keefe (08) 9381 7766
Brand manager: Danielle Chapman (02) 9282 1638
Production, sales and distribution manager:
Phone: D'Amico (03) 9603 3847
Advertising production inquiries: (02) 9282 3322

ASSET REVIEW GROUP

CEO and editor-in-chief: Michael Gill
Artistic director: Glenn Burge
Magazine design director: Tony Rice
Group commercial director: Phil Gallagher
Group marketing director: Simon Wake
National circulation manager: Bob Fairless

Subscription hotline: 1800 456 900
Internet: www.assetmag.com

Printed and sold retail price \$7.95 (including GST). All Asset material is copyright. Reproduction in whole or in part is not permitted without written permission from the editor. Asset is published by Asset Review Financial Review Group, a division of Fairfax Media Publications Pty Ltd ABN 33 003 357 720. Imaging, pre-press and production by Magazine Operations, Fairfax Media Publications Pty Ltd. Printed by Hannanprint NSW, 55 Dooody Street, Alexandria, NSW 1515. Asset staff may be owners of shares or options in Fairfax Media through the employee share ownership plan. All financial prices will be disclosed.

Financial product advice published in Asset has been prepared without taking into account the objectives, financial situation or needs of any reader. Because of that, you should, before acting on the advice, consider the appropriateness of the advice having regard to your objectives, financial situation and needs. If the advice relates to the acquisition of a particular financial product, you should obtain a Product Disclosure Statement for the product and consider the statement before making a decision about whether to acquire the product. The issue of Asset is on sale from October 2, 2009. The next issue is on sale from November 6, 2009. The next issue is on sale from March 31, 2009.

Circulations
Audit Board



Unreal expectations



THE FINANCIAL

Ombudsman Service's (FOS) June ruling in Determination 18959 should put fear into the hearts of all financial planners. The FOS

directed a planner to reimburse a former client \$103,382.21 plus interest – the amount he recommended the client invest in failed hedge fund Basis Yield Fund, provided by Basis Capital.

The FOS panel found:

- ❶ The financial adviser's asset selection was only an asset allocation made on a generic basis, without any real understanding of the Basis Yield Fund product and the fund manager's discretion.
- ❷ The product was arbitrarily placed as a defensive asset, when a review of its operational components and capabilities would have shown it was not.
- ❸ No real basis existed for both the initial asset allocation and the eventual tactical asset allocation, as it was not tied by reason or systematic analysis.
- ❹ Monitoring of the client's investment was inadequate.

Consequently, the financial planner breached his duty of care under the Corporations Act 2001, "causing the complainant to suffer a loss for which the member should be liable", the panel said. It's a fascinating case that has widespread ramifications for the industry. FOS criticised the planner for failing to accurately determine the risk tolerance of the client, despite outsourcing its risk profiling to a third party.

The panel also criticised the planner for relying too much on the information and ratings from external research houses. The financial planner "defends selection of this investment simply because it was

on his employer's approved product list and highly recommended", FOS said in the determination. "This alone does not satisfy obligations under s945A to a particular client. The adviser must go beyond this to demonstrate care and a detailed understanding of the product, before he can assume it is suitable for a particular client – that is the basis of s945A."

These findings support the Australian Securities and Investments Commission's banning last year of Perth-based financial planner and accountant, Ed Eikelboom (see "Ignorance no defence", page 12). Yet it's unfair and unrealistic of the regulator and FOS to expect financial planners to carry out in-depth investigations on the products they recommend, particularly when they haven't been trained to do so.

The planner in question pointed out that his licensee's chief research analyst met a number of Basis Capital employees in the course of researching the company and its funds, and "like most research houses, was impressed with the robustness of the Basis Capital investment process". He added that the lack of liquidity that had "engulfed the structured credit market" had surprised most players within it.

Anyone on the buy side – including journalists – knows how difficult it is to decipher and cut through the slick, well-rehearsed spiel of a professional salesman. Furthermore, the constantly changing asset allocation, security selection and risk-taking in portfolios makes it near impossible for outsiders to keep up-to-date.

If planners must thoroughly research all products personally, the time they spend in front of clients will be dramatically reduced and their incomes squashed further. This would make their business models unsustainable. ❶

LENG YEOW, EDITOR