



















### 3 Professional Standards

*"What then is the relation of law to morality? Law cannot prescribe morality"*  
R.M. MacIver (1882–1970)

Seeking to regulate morality by way of "black leather law" is largely futile – at the very least inefficient in terms of cost and effort. No matter how well educated or regulated an industry may be, a very small minority will always act inappropriately. The trick is to design systems that identify this type of behaviour before it becomes widespread (systemic), that provides adequate & just compensation for those wronged and punishment for the perpetrator.

Codes of conduct provide behavioural guidelines and ninety nine percent of professionals would engage in the expected behaviour without reference to, or need for, the code. (It has actually been our experience that where Codes have been developed in various parts of the financial service industry historically, that they have been drafted merely as a statement of existing practice.) And again, for those who would seek to further their own interests at the cost of their clients, the Code will provide little deterrent.

At best, a Code has the potential to provide some direction for those who might otherwise struggle with any "grey areas" associated with expected behaviour. The existence of a Code may also go some way to enhancing the perception of credibility around the advice industry in the eyes of the consumer. Finally, a Code may provide a reference point for clients seeking to know whether or not their adviser has acted in their best interests.

Assuming that ASIC creates a register of financial planners, then as part of the registration process, planners could be required to endorse any relevant code of conduct. The registration process may also involve certification of minimum professional training hours and the like.

What should be regulated are the arrangements and behaviours that give rise to potential conflicts. Focus should be on things such as:

- front-loaded insurance commissions,
- product-aligned licensees,
- all forms of dealer group sponsorship,
- volume rebates, etc

## 4 Recognition of Professional Bodies by ASIC

"Picking winners" is something that should be left to punters not bureaucrats or politicians. There would appear to be a level of moral hazard involved in ASIC seeking to anoint particular professional bodies, particularly if this is done to the exclusion of other bodies or groups in the industry.

The "business" of professional bodies revolves around credibility and membership numbers – any endorsement by ASIC would no doubt add significantly to the bottom-line of the groups in question. It has been our experience that, despite their articulations, some bodies do not adequately represent the breadth of interests within an industry or, as is often the case, they may put forward views that purport to be representative, but in reality they reflect the self interest of the professional body.

We do not support ASIC providing recognition of professional bodies.

However, there could well be a role for an **independently constituted panel** (similar to the tax practitioners board) to oversight the registration and related management of planners.

The word "AXIOM" is written in a light orange, handwritten-style font. The letters are thick and have a slightly irregular, brush-like appearance. The 'A' is a simple arch, the 'X' is formed by two intersecting diagonal strokes, the 'i' has a small dot above it, the 'O' is a simple circle, and the 'M' is formed by two vertical strokes connected at the top.