

Within these rules

Financial advisers are categorised and regulated differently in France. **Dr Michael Annett** looks in detail at what advice you can access across the Channel

Is your financial consultant really authorised to advise you given the regulatory changes that are set to occur?

The European Union is keen to ensure that financial regulation touches all aspects of the financial system, whether or not it is of a strict financial nature.

France is a country well-versed in the creation of additional layers of administration – though it does have to be said that it is generally for the benefit of all (except for the taxpayer who has to pay for it!). France also likes to exercise its share of control, especially in the field of financial regulation.

Whereas most countries, including the UK, have professionals who advise on a variety of aspects touching a person's finances, France's financial services sector is split into three, allowing professionals to select the sector or sectors that are of interest to them. As a result, France effectively has three regulatory systems, one for each of the following activities:

- *Conseiller en investissements financiers* – consultants in financial investments.
- *Opérations bancaires et services de paiement* – any bank-associated activity, such as the intermediation for loans and mortgages.
- *Courtage d'assurance* – the act of insurance and assurance broking.

While each of these activities are regulated in a different manner, the overall main regulator, the Autorité des Marchés Financiers, the AMF, has a very efficient website where the regulated activities of any professional can be seen (www.amf-france.org/bio/rech_CIF.aspx?lang=fr&Id_Tab=0).

But the French approach to financial advice is not solely based on investments. Indeed, it also includes two further activities: those concerning property investments, and legal (and fiscal) advice.

LEGAL ADVICE

What with the complications generated through the forced succession laws, the different ways in which property can be owned, the legal and fiscal situation that can exist between spouses, and so on, personal financially orientated legal (and fiscal) advice has become quite a specialised activity in its own right.

It is therefore logical to expect that the combination of the three main financial activities, plus activities associated with property transactions, plus legal (and fiscal) advice, would all result in yet another, more complete, French professional activity: that of the *conseiller en gestion de patrimoine* – the wealth-management consultant for lack of a better equivalent translation.

The French public have thus been free to seek professional financial assistance from the relevant specialised source – or sources – best suited to their need, and in the knowledge that they can verify that the professional is appropriately authorised in the relevant disciplines forming his activity.

But, as a foreigner in France, perhaps even unaware of the French financial regulatory system, are you obtaining financial advice from someone who is in fact authorised to give it?

To possibly make matters worse, there is a phrase in law, *caveat emptor*, which means 'buyer beware'. It is a valid principle since it underlines the importance of having prior knowledge about the regulatory status of a professional, something which is especially true for foreigners seeking financial advice in France and who may not even be aware of the existence of a multi-regulatory approach to financial planning.

Many harp on about regulation and it certainly is important in its own right but what is also worth knowing is that, in France, financial professionals can neither obtain nor renew any of their regulatory statuses unless they have the appropriate professional indemnity insurance to cover these activities so make sure that if anyone says they are 'regulated', they also say they are 'professionally insured'.

While the term 'property investment' can be understood in the normal Anglo-Saxon sense, the difference in France is that they also have access to a large array of different forms of tax-efficient property investments *per se*. These can be either residential, business, or commercial, and even overseas. This is all due to the various fiscal incentives given by the government, both for ownership

and against income, but as a result, this area of financial planning does require rather specialist knowledge.

FINANCIAL ACTIVITIES

While each of the three main activities, and that of property investments, have minimum entry requirements to be regulated, the activity of legal (and fiscal) advice has always been based on

past experience, and, has never required any proof of a required level being attained. And here it is worth clarifying that none of the four main activities – investment, broking, banking, property – give any right whatsoever to provide legal (or fiscal) advice of any kind, since each activity is no more or less than exactly what its name indicates.

But change is in the air, as, further to proposals made by the French Député, Louis Giscard d'Estaing, and accepted by the government last July, the title of *conseiller en gestion de patrimoine* will become a professional activity in its own right.

Furthermore, due to the banks insisting on their right to use the title, a secondary title, that of the *conseiller en gestion de patrimoine indépendant* will only be able to be used by aspirants exercising at least the original three financial activities – and, there will be a separate register for the public to consult.

As part of this change, the issue of the provision of legal and fiscal advice is also being addressed; the new regulations require the professional to have no less than a third-level university diploma (Ph.D equivalent) in *gestion de patrimoine* – and only this one qualification. While there are currently around 120 people in France with this qualification, and only some dozen expecting to acquire it this autumn, only about 40 of these people are in fact involved in private practice as *conseiller en gestion de patrimoine indépendant*.

So, do remember to check the extent of your financial adviser's professional remit first by consulting the AMF's website and, if seeking legal and fiscal financial advice, do ask about their qualifications. ■

The French have been free to seek professional financial help from the source best suited to their need

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