

# BRAMWELL BROWN LTD

## INVESTMENT ADVISERS – BROKERS

Director: Brett Dymond – AFA, BBS, GradDipBusStud (Personal Financial Planning)

### **Bramwell Brown Limited – Newsletter – July 2011**

#### **Regulation**

I seem to have started plenty of newsletters recently with this topic, but unfortunately it remains the focus for many advisers around the country. July 1<sup>st</sup> was the deadline for financial advisers to become authorised to provide services to the public. Without authorisation from the Financial Markets Authority advisers are now breaking the law if they offer financial adviser services relating to Category 1 products. So will the new laws achieve the desired goals set by the lawmakers following the finance company collapses and the global financial crisis? The goal is “to promote the sound and efficient delivery of financial advice, and to encourage public confidence in the professionalism and integrity of financial advisers.” The main thrust of the new laws involves disclosure, competency and accountability.

#### Disclosure

Disclosure is now strictly regulated and prescriptive. There are two types of disclosure required; primary and secondary disclosure. The Primary Disclosure Statement is set out according to law and advisers have no discretion to add or amend details. Every adviser’s Primary Disclosure Statement will follow the exact same format, and it is designed to help consumers choose a financial adviser that best suits their needs.

Secondary Disclosure is less prescriptive, but by law must contain certain information including experience, qualifications, fees, and sources of remuneration. Disclosure Statements must be given to clients before providing a service unless it is impractical to do so, in which case the information must be provided as soon as practicable after providing a service. For those of you receiving the newsletter by post my Primary and Secondary Disclosure Statements are enclosed. For those who receive the newsletter by email they are available here.

<http://www.bramwellbrown.co.nz/wp-content/uploads/2011/06/Primary-Disclosure-Statement.pdf>

Please take some time to read them and if you have any questions, or if there is anything you don’t understand, don’t hesitate to make contact.

## Competency

The new laws dictate the minimum qualifications required to hold the designation of “Authorised Financial Adviser.” Personally I think the bar has been set quite low, although I don’t necessarily believe academic qualifications ensure competence. Integrity is the most important attribute an adviser needs, followed by personal experience (some of it from the school of hard knocks) backed by knowledge, “some” of which may need to have come from text books. There is a requirement to maintain competence by undertaking at least twenty hours of continuing professional education each year. The IFA requires an average of thirty hours each year.

## Accountability

This is the area that is likely to cause advisers the most concern. The new laws are designed to hold advisers accountable for poor advice. I don’t have a problem with that, and I welcome the fact investors now have access to a free disputes resolution service. I do, however, have other concerns. I hope the new laws don’t leave investors thinking there is now less risk in investing money. This is not the case, and investors still need to take responsibility for their investment decisions. Your adviser should be able to explain investment risk to you and help match your situation with an appropriate level of risk, but the new laws haven’t removed any of that risk. Fletcher Building shares (for example) aren’t any less risky now than they were last month – all that has changed is that your adviser now has an obligation to ensure that Fletcher Building is an investment that suits your requirements.

I’m sure there will be more in depth analysis by advisers of a client’s tolerance for risk, but I wonder if advisers will lean toward low-risk products to avoid the possibility of action being taken against them. I’m confident that provided a robust system of information-gathering and analysis is conducted we can offer the same products (shares, bonds, debentures, KiwiSaver, etc) that we always have, without the fear of litigation. By all means sue me if I’ve been negligent, but please don’t take me to court because your loss aversion turns out to be poles apart from your risk aversion.

One of the quirks of the new laws is the fact I am now not able to advertise as a share broker. Only those who are members of the exchange are able to call themselves share brokers from now on. This is the likes of JB Were, Direct Broking, First NZ Capital, and Forsyth Barr. I’m not sure why they needed to make this change as there are plenty of provincial licensed share brokers operating throughout the country. I have had to change all marketing material (letterhead, business cards, website etc) at considerable cost to comply with the new law. Some licensed share brokers are moving to calling themselves stock brokers; however I’d rather not test the lawmakers with the potential for a \$50,000 fine imposed on those who knowingly break the law.

## **Argosy Property Trust**

Some investors in Argosy Property Trust are tiring of the amount of mail the company is generating recently. There are two issues Argosy are dealing with at present; a takeover proposal by DNZ, and the internalisation of their management contract. The internalisation of the management contract is an issue that unitholders should have the opportunity to vote on at a special meeting yet to be announced. What Argosy is planning to do is buy out the contract for managing their properties and “internalise” it. This means Argosy would be managing its properties itself on a cost-recovery basis only (instead of the current arrangement where an external manager is paid to manage the properties). The issue some unitholders have with the proposal is the \$32.5 million payment to buy out the existing manager. There is concern that this payment is far too high, especially considering unitholders have the ability to remove the manager at no cost. I must say \$32.5 million dollars seems an awful lot of money to pay someone to stop working.

The trustee, Guardian Trust, has written to investors along with Argosy and DNZ. Unfortunately it coincided with Argosy sending out election notifications for their dividend reinvestment plan, so the mail was coming thick and fast. It won't stop yet I'm afraid – the next month will see a steady stream of material for you to digest. There will be an independent report by Grant Samuel which should provide enough detail for unitholders to vote on any proposal Argosy puts forward. Contact the office if you need any guidance on what you should be considering.

## **Hockey**

I will be in Auckland from July 20<sup>th</sup> to the 24<sup>th</sup> following the Wairarapa Under 18 hockey team at the national tournament. I'm also in Wellington at an IFA conference on July 13<sup>th</sup>. Sue will be in the office while I'm away. At other times I'm out of the office with clients, or possibly attending Rathkeale College Board or finance committee meetings. Whenever the office is unattended I'm conscious of the possibility someone may have urgent business that needs taking care of. On these rare occasions please don't hesitate to contact me on my cell phone. The phone numbers below may also be useful to note:

Office	3788299
Brett (Home)	3703911
Brett (Mobile phone)	0274523980
JB Were (Christchurch)	0800555553 (Shares)
Direct Broking (Wellington)	0800800372 (Fixed Interest)
EL & C Baillieu (Melbourne)	0061396029222 (Australian shares)

## **Z Energy**

Greenstone Energy, a company formed by Infratil and the New Zealand Superannuation Fund, last year bought the assets of Shell New Zealand. The company has recently rebranded as Z Energy, and has announced it is issuing up to \$100 million of fixed rate, secured, senior bonds.

- Interest rate – 7.25%
- Maturity Date – August 15<sup>th</sup> 2018
- Interest paid quarterly
- Minimum investment – \$5,000
- Closing date – August 5<sup>th</sup>

The bonds are secured, senior obligations of Z Energy and will rank equally with the existing series of bonds issued by Greenstone Energy Finance Limited (in respect of which Z Energy has become the substitute issuer). The Bonds are secured and guaranteed by the issuer, Greenstone Energy Holdings Limited and Aotea Energy Limited, together with other subsidiaries of Aotea Energy Limited, which are jointly called “Z Energy Group”. The joint owners, New Zealand Superannuation Fund and Infratil, do not guarantee the bonds. The Z Energy Group's banks and bondholders share the same security over the issuer's and guarantors' assets on an equal ranking basis. This security ranks behind Shell's security over petroleum products that Shell has supplied for which it has not been paid, and their proceeds, and statutorily preferred creditors.

I will be attending the bond offer presentation on July 4<sup>th</sup> so will have further information for those investors who are interested in this offer. Please call the office as soon as possible if you would like to discuss this opportunity.

## **Goldman Sachs JB Were**

For those clients who pay for their New Zealand share purchases by Internet banking, and may have the JB Were account details saved in their system, please note the JB Were bank account will change on July 4<sup>th</sup>. The new details are:

JB Were (NZ) Pty Limited Client Funds Account

Bank of New Zealand

80 Queen Street, Auckland

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