"If a client invests in property syndication on a recommendation from their adviser, it is essential that the risks are properly explained. If this is not done, the client has recourse to complain to the FAIS Ombud to get the money back that has been lost."

This certainly seems to be the case with most property syndications. Many of the advisers who have 'sold' these investments to clients do so with a very healthy commission of between six and 10 per cent of the investment fee. So, if your client invests R1 million of their retirement savings into a property syndication scheme, you bank between R60 000 - R100 000 on that recommendation.

Warren Ingram, director of Galileo Capital, said that investors are often 'guaranteed' interest of 10 or 12 per cent a year with a promise that the whole investment is underpinned by a great property that will be sold at a massive profit. "Honest advisers question how it is possible that they could be paid a commission of up to 11 per cent upfront, while their clients would get 10 per cent a year guaranteed when the best listed property companies could only deliver half that return."

It's easy to see why these schemes attracted so much interest. Commonly those who tend to find themselves exposed to these kinds of investments are older clients, often retirees who have not saved enough for their retirement and are searching for high returns to make up for years of not saving adequately.

There are many recent examples of property syndication schemes that have gone wrong. Sharemax, PIC Syndications and Realcor, are just three that are currently battling to stay afloat in the face of lawsuits, a lack of capital and angry investors.

Dawie Roodt, executive director of Efficient Group and spokesman for the new Sharemax board, who was one of three new directors brought in last November after the resignation of members of the former board, said the layers of costs involved in property syndications puts them on the back foot from the start. "Investors who participate in these schemes are already operating in a deficit of six per cent just on the basis of the adviser commission.

"In principle, there is nothing wrong with property syndications. They allow individuals to participate in large syndications that they would otherwise not be able to access," said Roodt. "However, the one disadvantage for investors is that property syndication, by its nature, is a fairly illiquid investment so it is difficult for investors to exit the investment easily. It is also difficult to determine the value of the investment on a day-to-day basis."

In the case of Sharemax, Roodt said that there was a highly complicated structure with a public company collecting money and lending this to a private company, which then acquired a property, all of which now has to be untangled. This has been further complicated by a number of claims and counter-claims between the syndicated companies. "That is why we are proposing a scheme of arrangement which will enable Sharemax to get rid of all the claims and obligations."

Since speaking to INVESTSA, Roodt has said the new board of Sharemax is looking at alternatives to its planned scheme of arrangement that may prove more attractive to the investors.

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The issue of the structure is one of the biggest problems with these investments. One source told INVESTSA that there have been instances where the inflow of money from new investors into these schemes has been used to pay a return to the original investors before the company generated an income. In effect, this makes it a Ponzi scheme, as investors are paid back not from profit earned, but from capital paid in by subsequent investors. If property prices continue to go up, however, then everyone seems to be winning; but when prices halt or even fall, the scheme begins to unravel.

Ingram said he started questioning the business model of property syndications back in 2005 as he could not understand how such investments were paying a guaranteed income far higher than their listed counterparts.

"I could not understand how advisers could be paid such massive upfront fees on property developments which are, by definition, only bare pieces of land. I am not sure whether these syndications can be classified as scams but I certainly feel that no ethical adviser could recommend them. For example, you have to wonder how a piece of land could be bought by a group of developers for R100 million and then immediately sold on to a syndication for R300 million."

Marius Fenwick, chief operating officer at Mazars Financial Services, said property syndications are not regulated by the FSB and therefore should not be promoted by financial advisers. "Technically property syndications are not regulated by the FSB but fall under the ambit of the registrar of companies. The dilemma and danger for financial advisers is that the syndications are promoted by offering units in the investment which is both misleading and incorrectly marketed."

However, Fenwick added that the FSB has taken a very stern view on promoting property syndicated investments. "Advising clients to invest in property syndication is seen as financial advice which falls squarely under the ambit of the FSB, irrespective of the fact that property syndications fall under the Companies Act and not the FSB. Therefore, advisers will be held accountable if such syndication fails."

There is a key point here for financial advisers. If a client invests in property syndication on a recommendation from their adviser, it is essential that the risks are properly explained. If this is not done, the client has recourse to complain to the FAIS Ombud to get the money back that has been lost.

An important distinction for advisers to understand is that if the client loses the money they invested, they can claim back the entire amount, up to R800 000. So an adviser may be forced to pay back not just their own commission, but also the full amount that has been lost.

Justus van Pletzen, COO of the Financial Intermediaries Association of Southern Africa (FIA), said it is vital that intermediaries follow the correct protocol and do not give the client any reason to find blame. "The intermediary should always make sure that there is a record of advice. The value of record keeping cannot be emphasised enough and this needs to include a risk analysis as well as the pros and cons of the solution."

Of course, someone does need to be held accountable for the collapse of these schemes but Ingram said that this cannot be laid squarely on the shoulders of the adviser. "Sadly, the advisers will probably be the easiest targets as they don't have the deep pockets to fight these claims in court and will therefore suffer the most. The promoters and founders of these schemes are the parties that should be targeted by the press, regulators and investors."

Whether the fault is the adviser's for banging clients into risky investments without properly explaining the risks; the client's for not saving for retirement early enough; or the founders of syndication schemes for profiting from desperate consumers willing to gamble with their savings; it is clear that property syndications are not for the faint hearted.