A NEW APPROACH TO SELECTING A FINANCIAL PLANNER

Selecting a financial planner has never been an easy task. Yes, experts have long advised checking such things as a person's experience and education, as well as their regulatory record. But in recent years, selecting a planner has become especially difficult given so many financial professionals, including stockbrokers, insurance agents and bankers often provide similar services, such as comprehensive financial plans and investment products.

Resolution of an upcoming court case involving the Financial Planning Association® (FPA®) and the Securities and Exchange Commission (SEC) may soon make it easier to tell the difference between a financial planner and other types of financial and investment representatives.

In the meantime, however, experts say there are a number of ways to distinguish a financial planner from other types of financial professionals.

Consumers should focus on the following issues: regulation, fiduciary responsibility, disclosure and values. First, the issue of regulation. The SEC regulates the actions of registered investment advisors (RIAs), some of whom are financial planners and some who are also investment advisers who do no financial planning. By contrast, NASD regulates the actions of registered representatives, or what are more commonly called stockbrokers, and insurance agents who deal with securities and mutual funds.

The SEC regulates the actions of financial planners, who must comply with the Investment Advisers Act of 1940. Under that Act, financial planners must provide—and periodically update—clients and the SEC (or state securities regulators) with information about themselves and their records; brokers are required to provide much less information. Financial planners also perform more comprehensive services for clients, including recommendations of appropriate asset allocations. Brokers need only recommend (and handle orders for) securities purchases and sales, being careful to limit recommendations to those which they consider "suitable."

In short, RIAs who are financial planners are obligated to place the clients' interests above their own. Stockbrokers were traditionally exempt from registering under the 1940 Act and were exempt from fiduciary responsibility when buying and selling securities on behalf of their clients, including non-discretionary accounts. **Therefore stockbrokers need not place their clients' interests above their own but merely meet the standard of "knowing their customer" and making "suitable" recommendations.** In many cases, stockbrokers or insurance agents who provide a financial plan or investment plan do so as an "incidental" service. According to FPA, the current SEC rule presently allows stockbrokers to avoid the fiduciary and disclosure standards of the 1940 Act while being able to provide the same services as financial planners. The SEC presently prohibits stockbrokers from calling themselves financial planners, although it allows them to use similar titles such as financial consultant and financial advisor, and to provide fee-based advisory services such as retirement planning under more lenient broker-dealer sales regulations.

As for disclosure, financial planners who are registered as RIAs with the SEC are required to disclose conflicts of interest and their qualifications.

Of note, financial planners (and others) registered under the Investment Advisers Act face the risks of higher liability for violating fiduciary and disclosure standards; brokers registered only under the Securities Exchange Act of 1934 are not considered fiduciaries and do not have to disclose as much about themselves and their businesses. Insurance agents who call themselves financial advisers may face even less regulatory oversight than brokers.

When searching for a financial planner, consumers might consider asking whether the financial planner is legally required to act in the client's best interest, and whether the broker's recommendations are

"solely incidental advice" or not. This is especially important given that both financial planners and stockbrokers may derive compensation from fees based on percentages of assets managed and/or hours of consultation and related services. Brokers offering fee-based advice must also provide a consumer warning statement to new clients that the account is a brokerage, and not an advisory account.

When searching for a planner, it's typically a good idea to take advantage of resources that provide access to financial planners. FPA's PlannerSearch, which can be found at www.fpanet.org/public, is one such service. In addition, FPA has several consumer publications designed to help people choose the right planner to meet their needs. FPA suggests that consumers request a written disclosure document from the planner, such as the Form ADV. Consumers can also review the NASD Web site to find disciplinary action taken against registered persons. The Form ADV answers many questions, including those regarding a planner's work, disciplinary actions, experience, compensation, method of planning, areas of specialization, and business relationships the planner has that might present a conflict of interest. Consumers may also want to ask whether a potential planner will provide an Agreement of Engagement Letter documenting and describing all services to be provided and all fees that will be paid by the client -- and/or all compensation to be received by the planner from "outside" sources.

Some further issues to consider when selecting a financial planner:

- Experience with the client's issues
- Credentials and education
- Price and methods of compensation
- Investment philosophy
- Approach to financial planning
- Ask for at least 3 existing client references

Since trust is at the heart of any working relationship with a planner, it's important that the consumer work with someone whose actions and words are consistent with the letter and spirit of laws and rules related to financial planning.

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