

At the Financial Planning Association® (FPA®), we believe consumers are entitled to a clear set of ethical rules governing their professional adviser. FPA supports clear disclosure and high standards of conduct for anyone offering financial planning to the public, particularly in light of the considerable confusion these days over who can call himself or herself a financial adviser.¹ We believe it is important that you ask the right questions before selecting a financial planner or before changing to a new one.

Individuals who provide financial advice to the public use a wide variety of titles to describe themselves, such as “financial consultant,” “financial adviser,” “wealth manager,” or similar titles. However, they are not all subject to the same standards of legal conduct. Be wary of anyone who appears more interested in pushing specific financial products without disclosing any conflicts of interest. Their legal obligations to you as a consumer, such as placing your interests first and disclosing how they are paid, vary considerably even if they go by the same title.

A new rule adopted by the Securities and Exchange Commission for stockbrokers, effective **July 22, 2005, only muddies the name game.** This new regulation continues to allow brokers to use different titles, but it attempts to clear up some common misperceptions of consumers about conflicts of interest by requiring firms to give brokerage customers a prominent statement similar to the language below:

“Your account is a brokerage account and not an advisory account. Our interests may not always be the same as yours. Please ask us questions to make sure you understand your rights and our obligations to you, including the extent of our obligations to disclose conflicts of interest and to act in your best interest. We are paid both by you and, sometimes, by people who compensate us based on what you buy. Therefore, our profits, and our salespersons’ compensation, may vary by product and over time.”

A brief chart on the back of this page compares the differences in consumer protection between brokerage and adviser laws. FPA does not endorse any specific way of paying your financial adviser, or recommend any particular kind of firm, large or small. No matter where your adviser works, however, you should ask him or her important questions so that the information you need is disclosed in a way that you understand. The new SEC rule fails consumers by not requiring the same disclosure standard for all financial advisers, not requiring that all financial advisers place their clients’ interests ahead of their own, and not requiring that all financial advisers are fully qualified to help you meet your financial goals.

The new SEC rule requires brokerage firms to refer you to someone in the firm if you have additional questions. FPA recommends that you ask the right questions, starting with the ones on this page.

¹A recent industry survey indicates 91 percent of investors want stockbrokers and financial planners to play by the same rules when providing the same services. (“Regulation of Stockbrokers and Financial Advisers: What American Investors Understand, Think is Right,” by Consumer Federation of America and Zero Alpha Group, October 2004.)

5 Key Questions to Ask

Below are some initial questions that you should consider asking when selecting your financial adviser:

- 1. Is the account that you are offering an “advisory account,” or is it a “brokerage account” exempt from investment adviser registration?**
- 2. Regarding brokerage accounts, are you required under law to act as a fiduciary by always placing my interests first?**
- 3. Are you also a registered investment adviser? If so, how are you going to tell me when you are acting as a sales agent of the brokerage firm and when you are acting as an investment adviser?**
- 4. Regarding any brokerage account that I may open, what are the potential conflicts of interest that you have when recommending certain products for sale to me, and how will you disclose these to me prior to purchase, including any special cash payments or incentives that you receive?**
- 5. Can you provide me with a written disclosure detailing any disciplinary history for you or your firm?**

* For disciplinary information on your broker, please visit www.nasd.com and access the link to “Broker Check.”

Differences between Brokerage and Advisory Accounts under the New SEC Rule Regulating Fee-Based Advice

Brokerage Accounts

The account is non-discretionary, meaning your broker does not have the freedom to trade without your prior consent.

Your broker may use various titles, such as “financial consultant,” “financial adviser,” or “wealth manager.” **A broker cannot call him/herself a “financial planner,” or sell you a financial plan, unless also registered as an investment adviser.**

Your broker need only recommend suitable investments to you at the time of sale, and to promptly execute the trades you initiate. The broker is not required to make ongoing recommendations to you. He/she does not have to notify you of all payment incentives related to your account. He/she is not required by law to always act in your best interest.

Your broker does not have to disclose his or her disciplinary history or qualifications *unless you ask first.*

Advisory Accounts

The account may be discretionary, meaning you can authorize your adviser to trade without your prior consent (except where the adviser’s firm owns the stocks it recommends for sale).

Your adviser may call him/herself a financial planner, provide financial planning services, or deliver a financial plan to you. Your adviser may also call him/herself other titles such as “financial consultant” or “wealth manager.”

Your adviser has a **fiduciary duty** to you, meaning that he/she must put your interests ahead of his/her own. He/she is required to recommend what he/she believes are the **best choices** for you, not just suitable stocks or mutual funds.

Your adviser must, under the law, disclose all sources of income, possible conflicts, qualifications as an adviser, and any disciplinary history to you, even if you do not ask for this information. Your adviser also must clearly disclose if he/she is no longer acting as an adviser, but as a sales agent in implementing any of the recommendations that he/she has made to you.

For additional questions on how to choose the right financial planner, please call the Financial Planning Association at 1.800.647.6340, or visit www.fpanet.org/public to order a free brochure entitled “How a Financial Planner Can Help You...and How to Choose the Right One.” To see if your financial planner is certified by Certified Financial Planner Board of Standards, Inc. and in good standing, please visit www.cfp.net.

The Financial Planning Association® (FPA®) is the membership organization for the financial planning community. Its 27,600 members are dedicated to supporting the financial planning process in order to help people achieve their goals and dreams. FPA believes that everyone needs objective advice to make smart financial decisions and that when seeking the advice of a financial planner, the planner should be a CFP® professional.

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