

Searching for conflict-free advice

Recently, Mary Jo White, chairwoman of the Securities and Exchange Commission, opined that stockbrokers, insurance agents and sellers of financial products should be held to a fiduciary standard.

President Barack Obama has also endorsed pending legislation from the Department of Labor requiring a fiduciary standard for anyone recommending investments for retirement accounts.

The fiduciary standard is simple in its premise: Put the needs of your clients before anyone else's.

Despite the simple concept, a fiduciary mandate is anything but clear cut.

Brokers and insurance agents currently must adhere to a suitability mandate. This offers quite a bit of latitude for financial salespeople to encourage clients to buy things that may be full of conflicts of interest. Often, they are paid more for one product versus another. Additionally, a client may never see the payment for pushing these products.

Investment advisors, on the other hand, are under a fiduciary standard.

To be clear, just because someone has a fiduciary standard does not mean they are free of conflicts of interest. Additionally, if someone has a suitability standard does not mean they are crooked.

Furthermore, there is a cadre of lobbyists in Washington, D.C., working diligently to defeat the industry-wide fiduciary standard as we speak. There are hundreds of billions of dollars at stake, and politicians repeatedly show they will not risk offending major campaign donors. As such, the Wall Street machine remains a powerful force.

Recognizing we live in an imperfect world and Washington is not going to fix the flaws in human nature, it is wise for every investor to know how to identify conflicts of interest with anyone wanting to give you advice.

As such, before you hand over your hard-earned money, thoroughly ask these questions:

Do you have a fiduciary standard or a suitability mandate? How will this distinction affect the advice you give me?

In this relationship, who is your client? Am I your only client or are there others you consider when providing me with advice or products? Am I the only one compensating you for advice or do you receive compensation from others for selling certain products to me? If any advisor says, "You don't pay me anything," then you should run the other way. No one works for free.

How are you compensated - in cash, bonuses, trips or other items of value? In general, if you follow the money you will find the conflicts of interest.

Are you compensated differently by placing me in one product over others or do you receive the same compensation regardless of the product? Obviously, you want an advisor who is compensated the same regardless of the product.

Is your compensation considered to be fee-only, fee-based or commission based? Fee-only should mean your adviser has the same compensation regardless of the product used. Fee-based and commission can compensate an advisor more for recommending and selling certain products.

Can you outline conflicts of interest I will encounter in dealing with you/your firm? How do you ensure the conflicts of interest are communicated to me and held to a minimum? Again, there are conflicts of interest in every relationship. The wise investor will recognize this, identify them, and assess whether they are tolerable or not.

What disciplinary actions have been taken against you or your firm? Although an investor would think this is a good place to start, many brokers who have run afoul of regulatory bodies have been able to hide their records or have blemishes expunged. Firms and individuals who have clean records will be proud to share this with you.

Put it in writing. If an advisor has something to hide, they will not want to put it in writing. If they are hesitant to clearly outline important matters for you in writing, this is probably a good indication you should look elsewhere for advice.

All relationships have pros and cons. However, asking a few simple questions ahead of time should help identify potential pitfalls. Lastly, don't be in a hurry. A good advisor is going to give you very similar advice today, tomorrow or a month from now. So don't hesitate to sleep on it.

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