



Daniel Gibson

Your Practice

Impartiality of financial advisors is more difficult to gauge

Daniel Gibson, SVA Planners, Inc., Registered Investment Advisor

A controversial ruling enacted earlier this year by the US Securities and Exchange Commission muddies the distinction between financial planners and stockbrokers, further confounding investors who are seeking unbiased financial advice.

The SEC rule allows broker-dealers to offer fee-based services without registering as investment advisors when their advice is “solely incidental” to selling stocks.¹ Nicknamed the “Merrill Lynch Rule,” the rule exempts brokerage firms from the Investment Advisor Act of 1940 and allows brokers to represent themselves as financial consultants without adhering to the same fiduciary standards as registered investment advisors.

Under the 1940 act, investment advisors have a fiduciary duty to put the clients’ interests first and to fully disclose fees and other sources of compensation. Furthermore, registered investment advisors are required to disclose conflicts of interest, professional qualifications, disciplinary history, and business affiliations.

Daniel Gibson has a decade of financial planning experience and serves as a fee-only financial consultant with SVA Planners, Inc., based in Madison, Wis. For more information, call Wisconsin Medical Society Insurance and Financial Services, Inc. toll free at 866.442.3810.

Several consumer groups objected to the SEC rule, without success. In addition, the Financial Planning Association (FPA) filed a legal challenge in the US Court of Appeals for the District of Columbia and asked the court to vacate the rule and restore regulation of all financial planning activities under the advisors act. The FPA is waiting for a briefing from the court before proceeding.

In the meantime, the only guarantee that a financial advisor is adhering to a fiduciary standard is if he or she is a registered investment advisor or member of the National Association of Personal Financial Advisors (NAPFA). Both the FPA and NAPFA have long been advocates for full disclosure to consumers and also require their members to either actively pursue or maintain the Certified Financial Planner™ designation or CFP®.

In evaluating financial advisors, investors should carefully consider the professionalism, impartiality, and fiduciary duty of each type of financial advisor. The Certified Financial Planner Board of Standards has set forth 7 principles² that recognize the advisor’s responsibilities to the public, clients, colleagues, and employers and provides guidance in the performance of professional services. The 7 principles are as follows:

Integrity

Clients place their Certified Financial Planner professionals in positions of trust and confidence, which ultimately rests in the personal integrity of the individual. According to the code, integrity demands honesty and candor, which must not be subordinated to personal gain and advantage.

Objectivity

Objectivity requires intellectual honesty and impartiality, “an essential quality for any professional.”

Competence

Competency is demonstrated by attaining and maintaining an adequate level of knowledge and skill and by applying that knowledge effectively in providing services to clients. “Competence also includes the wisdom to recognize the limitations of that knowledge and when consultation of client referral is appropriate.”

As in other professions, Certified Financial Planner professionals are required to meet continuing education requirements, including ethics, to maintain their designation.

Fairness

Fairness requires the CFP® to disclose conflicts of interest and to balance conflicting interests. “Fairness is treating others in the same fashion that you would want to be treated and is an essential trait of any professional.”

Confidentiality

Client relationships are built on personal trust and assurance that the information shared with the CFP® will remain confidential.

Professionalism

With a professional designation comes a responsibility to behave with dignity and courtesy to clients, fellow professionals, and those in related professions.

Diligence

Diligence is defined as the provision of services in a “reasonably prompt and thorough manner,” as well as proper planning and super-

vising in the rendering of professional services.

For more information about the services provided by fee-only financial advisors and CFP® practitioners, see either the National Association of Professional Financial Advisors Web site, www.napfa.org, or the Financial Planning Association Web site, www.fpanet.org.

References

1. Available at: www.sec.gov/rules/final/34-51523fr.pdf. Accessed May 22, 2006.
2. Available at: www.cfp.net/learn/ethicsprinciples.asp. Accessed May 22, 2006.

Wisconsin Medical Journal

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