

## Consumer Tips on Working with a Financial Adviser

**A**t 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 considerable confusion these days over who can call themselves a financial adviser.<sup>1</sup> 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 similar-sounding titles to describe themselves, such as “financial consultant,” “financial adviser,” or “wealth manager.” 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 solutions 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.

Rules recently adopted by the Securities and Exchange Commission (SEC) for stock brokers add to this maze of confusion. These new rules allow brokerage firms to heavily advertise financial planning services under a variety of different titles. However, instead of requiring brokers to disclose their conflicts of interest and act solely in your interest, as is required of other financial planners, the SEC instead requires that a broker give you a limited consumer warning statement, very 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 product, or whether your adviser works for a brokerage firm or an advisory firm. No matter where your adviser works, you should ask him or her important questions so that the information you need is disclosed in a way that you understand. It is important to understand exactly what title or ‘hat’ your adviser is wearing when giving you advice—whether as a sales person or as a registered investment adviser subject to higher standards of conduct.

**After you receive the above consumer warning statement, if you have any additional questions, the SEC requires brokerage firms to refer you to someone in the firm for details.** FPA strongly advises you to do so, unless you understand the distinctions in the law. FPA recommends that you begin with the questions on this page.

<sup>1</sup>An 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 Advisors: 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 a financial adviser before choosing one:

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](http://www.nasd.com) and access the link to “Broker Check.”

# Differences between Brokerage and Advisory Accounts under the New SEC Rule

## Brokerage Accounts

You cannot choose a non-discretionary account, meaning your broker cannot trade stocks or bonds without your prior consent, except for special, limited situations.

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 doesn't have to disclose his or her disciplinary history or qualifications *unless you ask first*.

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.**

In addition, **if you believe that the advice offered by the broker is reasonably related to financial planning (in other words, financial planning under a different name), and the firm does not claim to be acting as an investment adviser, then you may want to contact the SEC to see if the firm is in compliance.** You may file a complaint online at [www.sec.gov/complaint.shtml](http://www.sec.gov/complaint.shtml) or send a fax to the SEC at 202.772.9295, if you are confused about whether the broker is acting as a financial planner.

## Advisory Accounts

You may select to have a discretionary account, meaning you can authorize your adviser to trade without your prior consent (except where the adviser's firm owns the stocks it is recommending for sale).

Your adviser may call himself/herself a financial planner, provide financial planning services, or deliver a financial plan to you. They may also call themselves by 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. They are required to recommend what they believe are the **best choices** for you, not just suitable stocks or mutual funds.

Your adviser must, under the law, disclose all sources of pay, possible conflicts of interest, qualifications as an adviser, and any disciplinary history to you, *even if you don't ask for this information*. They also must clearly disclose if they are no longer acting as an adviser, but as a sales agent in implementing any of the recommendations they have made to you.

***For additional questions on how to choose the right financial planner, please call the Financial Planning Association at 800.647.6340, or visit [www.fpanet.org/public](http://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](http://www.cfp.net).***

*The Financial Planning Association® (FPA®) is a nonprofit, membership organization for the financial planning community. FPA connects those who need, support and deliver financial planning. We believe that everyone needs objective advice from a competent, ethical financial planner to make smart financial decisions. FPA members demonstrate and support a professional commitment to education and a client-centered financial planning process.*

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