Jim and Penny Rogers

Vancouver, BC
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CSA

I spent 35 years as a financial advisor, and was a securities registrant for the final 10 yrs.

In the attached, Davis Kaufman offers a practical alternative to the (unlikely to ever get approved*) fiduciary standard for financial advisors.

Please, therefore, consider a (@ point of transaction) disclosure document incorporating his 3 (+ other questions I can think of) questions.

Cordially,

Enclosures: (2) Jim Rogers

* too many (provincial, territorial) regulators and provincial insurance commissions.

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COMMENT FP11

Is your advisor acting in your best interests?

Ensure fees and commissions are disclosed up front

DAVID KAUFMAN
Alternative Investor

There has been a lot of talk recently about the duty of care owed by financial advisors to their clients. At one end of the care spectrum is fiduciary duty, the highest level at law. At the other, the rather nebulous concept of "suitability."

Fiduciary duty commands advisors act at all times in the best interest of their clients, with any potential conflict of interest mitigated through disclosure and other actions. Suitability basically requires advisors ensure prospective investments are suitable for their clients, taking into account the clients' return objectives, risk tolerance and time horizon.

At first blush, these seem more or less the same. They are not.

Consider a woman who goes shopping for a pair of winter boots. She informs the salesperson she would like black boots that are warm, durable and waterproof. He fetches a pair that is black, warm, durable and waterproof. The cost is $400. He does not inform his customer the boots are going on sale the very next day, or that another very similar pair is $200.

To use financial jargon, the boots are perfectly suitable for the customer, but the purchase is not in the customer's best interest.

All too often, advisors, to whom the lesser standard of suitability applies, sell their clients the $400 pair of boots.

For example, an advisor might purchase mutual funds with deferred sales charges (that carry stiff penalties for redemption within the first five to seven years after purchase) for clients who may require liquidity in much shorter time frames. Or investments (usually new issues) that pay commissions to advisors are purchased in fee-based accounts, resulting in a double-dip scenario that is not disclosed to clients

> "There is nothing wrong with advisors collecting commissions

Here is a list of questions that will help you make this decision for yourself (and you should consider adding a few of your own):

1. Are you receiving a commission and/or trailer fee from the purchase you are recommending?
2. If so, how much, and for what period of time will I be subjected to any redemption fee?
3. How exactly will my portfolio be better after the proposed investment than it is now?

Let's remember that advisors, like everyone else, must make a living. There is absolutely nothing wrong with advisors collecting commissions or trailer fees from funds in which their clients invest, nor is there anything wrong with advisors charging their clients commissions directly in compensation for the valuable research and advice they provide.

The line is crossed, however, when the receipt of a benefit to the advisor works to the disadvantage of the client. A few simple questions can help to reduce the likelihood of this happening to you. Ask them and protect yourself.

Financial Post

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clearly and in plain English. Other times, client portfolios are churned with no purpose other than generating commissions.

This is not to say — and let me be clear about this — that your financial advisor engages in any of these activities, nor that your interests are placed behind his or hers. The majority of financial professionals are totally committed to their clients' needs, but this sort of activity does occur with shocking regularity and the amazing thing is that there are often no rules in place that forbid it.

One day we will catch up to other jurisdictions and replace the various standards currently in place with a simple blanket "best interest of the client" rule that will apply to any individual entrusted with assisting others to manage their money in any way.

Partly because of the patchwork of securities regulators the Canadian system is saddled with, and partly because of the advisory community's extremely powerful lobby, I wouldn't hold my breath for this.

Instead, I recommend taking this issue into your own hands and establish a relationship with your advisor that gives you some of the protections you may not automatically be given through legislation or regulation.

Irrespective of what standard of care your advisor must adhere to, there is no jurisdiction that allows any registrant in any corner of the Canadian financial markets to lie to a client. Therefore, if you ask the right questions, you can elicit the kind of full disclosure that will allow you to decide for yourself if a recommendation is in your best interest.

It takes guts to ask these sorts of questions, but it is exactly the power imbalance in the advisor-client relationship that allows less scrupulous advisors to give less than wholly impartial advice to their clients.

BRIEFINGS

Stricter regulations mulled for advisers

Canadian securities regulators are weighing the pros and cons of imposing a stricter fiduciary or "best-interest" standard on financial advisers who provide advice to retail clients. Investor rights advocates say advisers should be held to a higher standard of care, similar to the fiduciary duty of a company executive or lawyer — and note that other jurisdictions, including the United States, are moving in this direction. But improvements to adviser responsibility and accountability in Canada have been slow to come, despite regulatory initiatives dating back to 2000. The CSA, the umbrella organization for Canada's 13 provincial and territorial securities regulators, published a "consultation" paper on the issue earlier in October and is seeking comment from the investors and other market players until Feb. 22, 2013.

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