

Fiduciary groups urge SEC to prevent brokers from using 'adviser' title

Comment letters from the Committee for the Fiduciary Standard and the CFA Institute suggest the clarification is needed to differentiate brokers from investment advisers.

January 12, 2018 [By Mark Schoeff Jr.](#)

Fiduciary advocates are urging the Securities and Exchange Commission to prohibit brokers from calling themselves “financial advisers,” as the agency considers a regulation that would raise investment advice standards.

One of the biggest sources of investor confusion stems from the nomenclature that brokers use to describe themselves, the Committee for the Fiduciary Standard wrote in a comment letter on Friday.

When brokers hold themselves out as a “financial adviser” or “wealth manager” and when they advertise that they provide financial advice, it misleads investors, the committee said.

“[W]e recommend that the Commission require that any title they use clearly denote their role as salespersons,” the [committee letter states](#). “Titles can range from ‘salesperson’ to ‘broker’ but may not include terms that suggest a level of advice beyond that of stimulating the sale of a product.”

Investment advisers, who must register with the SEC, are held to a fiduciary standard that requires them to act in the best interests of their clients.

Brokers, who register with the Financial Industry Regulatory Authority Inc., are held to a suitability standard that requires them to sell products that meet an investor’s objective and risk tolerance. But the standard also allows brokers to recommend investments that produce the highest revenue for the broker as long as the other elements of the standard are met.

The distinction can be lost on consumers, especially as brokers increasingly market themselves as providing holistic wealth management services.

“If you call yourself an adviser, then you should be fiduciary all the way,” said Kate McBride, a member of the steering group of the Committee for the Fiduciary Standard.

The SEC has been [collecting comments](#) on a potential investment-advice regulation since last summer. The agency is slated to propose a fiduciary rule this year, according to its [regulatory agenda](#).

The SEC and the Department of Labor have vowed to work together on advice standards. The DOL is [reassessing its own fiduciary rule](#), which requires brokers to act in the best interests of their clients in retirement accounts.

A [recent Wall Street Journal article](#) said that the SEC proposal would come out in the second quarter and include adviser title reform. SEC member [Michael Piwowar has championed](#) sharpening title definitions.

Earlier in the week, the [CFA Institute filed a comment letter](#) calling on the SEC to conduct title reform outside of fiduciary rulemaking. The organization said that the SEC can make the changes administratively.

Under the Investment Advisers Act of 1940, brokers are exempted from rules governing advisers if the advice they offer to clients is “solely incidental” to sales. The CFA Institute said that the SEC should clarify what constitutes “incidental” and specify the definition of “investment adviser” to “include all who provide personalized investment advice.”

“We believe that everyone who provides personalized investment advice should be bound by a fiduciary, best-interest standard of care for their clients,” the CFA Institute letter states.

Another trend that is sowing investor confusion is the growth of hybrid advisers, who are both brokers and investment advisers. Once brokers who are dually registered serve clients as investment advisers, they have crossed a line of demarcation and must be held to a fiduciary standard at all times when working with the clients, Ms. McBride said.

“You can’t switch hats,” she said. “Otherwise, you’re misleading [consumers].”