August 29, 2010

To the SEC Rules Committee,

My opinion on the average investor's view of brokers, dealers and investment advisors is that most have no idea as to the differences between the terms. However, changing the names will not fix that, and will be confusing to those who do understand the current terminology. My suggestion for new regulation is that an actual conversation be required (face-to-face or by phone) in which the paid advisor must explain how he and/or his company make money from the transactions with the client's account and what motivates him to make investment suggestions. If he holds a Financial Advisor or Investment Advisor certification, then the advisor should be is required to explain how he must put the client's best interest first and then explain how he meets his employer's goals and priorities as well. If he holds no certification and is not required to put the client's best interest first, then he should be required to discuss whose interests are first (his, his employer's, a union, a corporation, a municipality, whomever). Any new information communicated to investors who pay someone to manage their accounts should not be left to the fine print on a Customer Agreement document. That is the most intimidating mode of communicating and the most likely to be ignored by exactly the folks who most need the information explained to them. Real conversations allow for questions to be asked and misunderstandings addressed. It also makes the bad guys lie out loud and on the record - good for enforcement.

I have had experience with several types of account manager.

- It is clear to me, in hindsight, that the pure broker-employee (Morgan Stanley, in my case) engaged in many more trades and recommended many more investments that benefitted her company (and possibly me as well) than the fee-only advisor. On some occasions the trades were probably much more to the benefit of Morgan Stanley, and the broker was compensated on how much of a security she could "move." On the positive side, the Morgan Stanley broker did give me opportunities for IPO shares in their clients that were not available to the general public, and I always had the opportunity to say "no" on any given recommendation.
- The most economical seems to be the CFA who is also an employee of a large brokerage house (Smith-Barney, in my case). He seems to truly want a long-term relationship and is clear about his duty to his client first and employer second. He is much more likely to say "no change needed" than the pure broker was. He is very service oriented and still able to offer one-of-a-kind securities. Costs are low because trade volumes are low and no fixed fee is charged. He provides annual analysis for retirement account duration beyond just required statements and manages a staff that is responsive and knowledgable.
- The fee-only advisor (Fisher Investments) is fixed on steady account growth and outperforming his benchmark. This is generally good, as account growth is what I'm after as well. However, in volatile markets, this is tough as he is limited in what he can do defensively. He is married to his benchmark, up or down... I pay his fee whether my account goes up or down, and he can say that he "performed well" as long as my account didn't go down as much as the benchmark. Not particularly inspiring.

There is no way for the SEC or any government body to regulate away ignorance or market volatility (as long as markets remain free). Ultimately, it is the investor's responsibility to educate himself in this area of life as in others. The SEC already has enforcement authority to go after the dirty dealers and bad apples in the barrel. New rules and regulations will not make unethical advisors better nor will it make stupid or greedy clients more responsible.

Good luck with this.
Melissa Murphy