

WHAT IS A FIDUCIARY?

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In December 2023 and January 2024, we attended two tax and legal conferences. The attendees included financial advisors, CPAs, and attorneys. At each event, the speakers informed us that only about 7-10% of all financial advisors are true fiduciaries, and of these, a mere 1-2% are women. They emphasized the importance of correctly understanding what "fiduciary" means, as well as the difference between "captive" and "non-captive" advisors. It appeared that many of the CPAs and attorneys were unaware of these distinctions.

What is a Fiduciary Advisor?

The Investment Advisors Act of 1940 states that investment advisors have a fiduciary duty to act in their clients' best interest. This fiduciary duty is regulated by the SEC and is characterized by two key applications (summarized):

Duty of Care: Advisors must thoroughly understand their clients' financial objectives and circumstances, applying skill, diligence, and prudence to meet their needs and goals.

Duty of Loyalty: Advisors must avoid conflicts of interest and always prioritize their clients' interests above their own.

How Can I Know if an Advisor is a Fiduciary?

One way is to simply ask the financial professional. Another method is to check the SEC website or look into the financial professional's credentials; a certified financial planner (CFP) professional, for example, is obligated to act as a fiduciary advisor. All investment advisors registered with the U.S. Securities and Exchange Commission (SEC) or a state securities regulator must act as fiduciaries.

On the other hand, broker-dealers, stockbrokers and insurance agents are only required to fulfill a suitability obligation. This means that while they must provide suitable recommendations to their clients, they don't have to put their client's interests before their own.

- Only about 7-10% of all financial advisors are true fiduciaries, with just 1-2% being women.
- Fiduciary advisors must act in their clients' best interests, adhering to strict SEC regulations.
- Broker-dealers and insurance agents follow the suitability standard, which is less stringent than fiduciary duty.
- Captive advisors are limited to products from their own firms, while non-captive advisors can offer a broader range.
- Understanding these distinctions helps you choose the best advisor for your financial needs.

Only fiduciary financial advisors are required to place your best interest above theirs. Fiduciary financial advisors typically work for Registered Investment Advisors (RIAs). They can also be certified financial planners (CFPs), but you should always double-check before working with one. The financial advisors who work for brokerage firms aren't typically fiduciaries. These professionals instead are required to work under the legal bounds of the suitability standard. Under this standard, these advisors are required to give advice and product recommendations that are only suitable for you, meaning they may have high fees or offer the advisor a large commission.

What is an RIA?

An RIA is a Registered Investment Advisor, which is a company, or firm. They are legal fiduciaries, but broker-dealers and other types of money manager firms are not. Some financial advisors, such as certified financial planners, may also be fiduciaries. If your financial advisor doesn't have a fiduciary duty to you, they may be able to recommend investments or products that pay them a bigger commission than ones that would be the best fit for you, which could cost you more. Fiduciaries, on the other hand, must act in your best interest. That's why it's often considered better to work with a fiduciary rather than an advisor who is simply following the suitability standard.

Captive vs. Non-Captive Advisors

- **Captive Advisors:** A captive agent or advisor is only allowed to sell or use certain products or investments. Usually, agents or advisors work for a brokerage firm, a bank, or an insurance company. They are not able to sell or use products from other companies and/or are very limited to what if any other products they may use from another company
- **Non-Captive Advisors:** A non-captive agent or advisor is someone who could sell or use products or investments from a large array of other companies. They are not limited to what they can or cannot use as they are not tied to just one company or limited in nature.

Are Non-Fiduciary Advisors Bad?

Not necessarily. Advisors working at brokerage firms or captive insurance companies can offer good products and services. The key is understanding their limitations and potential conflicts of interest. It's crucial for consumers to be aware of the type of advisor they are working with and what they can and cannot offer.

Making Informed Choices

Understanding these distinctions helps you make the best financial decisions for yourself. It's your money and your life, so being informed about the type of advisor you're working with is essential. Having transitioned from working at a brokerage firm and a hybrid insurance company to becoming a fiduciary at an RIA, we advocate for transparency and informed decision-making. Please let us know if you have any questions.

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