

NATIONAL COUNCIL OF FINANCIAL FIDUCIARIES
9812 FALLS ROAD . SUITE 114 . BOX 320
POTOMAC . MARYLAND . 20854
301/983-9180

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**For Further Information Contact:
Knut A. Rostad at 301/983-_____**

**New SEC Rule helps investors sort out brokers from
investment advisers, requires a brokerage account disclosure,
“Our interests may not be the same as yours”**

Important investor protection disclosure requirements for broker-dealers **take effect July 22nd** according to the National Council of Financial Fiduciaries, a Potomac Maryland-based organization of financial advisors promoting a client-first approach to financial advice.

Parts of the new SEC regulations, headed “Certain Broker-Dealers Deemed Not To Be Investment Advisors,” requires that broker-dealers who claim an exemption from the Investment Advisors Act and its fiduciary standards must disclose that their interests may diverge from those of their clients. Broker-dealers have been exempted from investment advisor registration and disclosure rules when their advice has been “solely incidental” to their broker-dealer role.

Harold Evensky, a founding National Council of Financial Fiduciaries (NCFF) board member noted, “This new disclosure rule is a vital step towards reinforcing the sharp historic and legal differences between an SEC registered investment adviser and an NASD registered representative or broker. For investors the key difference is not a matter of compensation or the number of regulations in place. It’s more than that. A broker and an adviser have fundamentally different responsibilities. They have fundamentally different jobs, based in law. A broker owes loyalty to his firm, and his job is to sell investment products and execute transactions. An investment adviser, on the other hand, provides advice and, by law, must put his client’s interests first. He owes his loyalty to his clients. This difference is not unlike the difference between your friendly butcher in the corner grocer and your dietician. Each can be very helpful, but each has a very different job to do.”

Knut Rostad, the Executive Director of the NCFF, said the SEC rule does not go as far as his group advocates, but is a strong step in the right direction. “We believe that the public will best be served when there is no broker-dealer exemption from the registration and disclosure rules for investment advisers. But the new disclosure requirements at least place the public on notice that, when they seek advice from brokers, the ‘buyer beware’ warning applies.”

On July 22, 2005, the new rule requires that any broker or broker-dealer claiming an exemption from the fiduciary standards of the Investment Advisor Act must assure that “...all customer documents contain a clear, prominent statement as follows:

‘Your account is a brokerage account and not an advisory account. Our interests may not be the same as yours.... We are paid both by you and sometimes by people who compensate us based on what you buy....’”

Obviously concerned that some firms might attempt to bury this stark warning in small print deep in voluminous documents, the SEC specified that

“To be ‘prominent,’ the statement should be included, at a minimum, on the front page of each document or agreement in a manner clearly intended to draw attention to it.”

“The NCFE applauds this important first step by the SEC to better differentiate brokers and registered investment advisors through these disclosures on ‘brokerage accounts’ said Rostad. As media attention to this issue broadens consumer awareness of the significance of this new disclosure, the loophole allowing advice-giving brokers to avoid their fiduciary responsibility will rapidly shrink. That’s good news for all investors.”

To help investors better understand how brokerage and advisory accounts are fundamentally different, NCFE has created the attached print public service announcement (PSA) that seeks to highlight the importance of the differences.

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For further information, call Knut A. Rostad at 301/983-_____.

The National Council of Financial Fiduciaries is formed as a non-profit organization. Its mission is to foster a financial advisory culture where fiduciary standards and practices permeate investment advice. Its founding Executive Board Members include Harold Evensky, Evensky & Katz, Coral Gables, Florida; Thomas Grzymala, Forensics Analytics, LLC, Keswick, Virginia; Donald M. Rembert, Rembert, Pendleton & Fox, Falls Church, Virginia, Sandra Champion, Champion Partners, Savannah, Georgia, and Knut A. Rostad, NCFE, Potomac, Maryland.