

Misleading Advertising Study - Summary

Broad Research Objectives

- Gather in-depth qualitative data to assess the extent to which firms, who hold themselves out as providing financial planning services, are misleading consumers.

Methodology

- The study compares the content of public advertising of SEC-registered Investment Advisers (websites, social media, etc.) and required regulatory filings (Form ADV, Form ADV Firm Brochure).
- Criteria for Firm Selection
 - ❑ SEC-registered Investment Adviser
 - ❑ Report providing “financial planning services” on Form ADV
- Study looked at 150 SEC-Registered Investment Advisers
 - ❑ 119 (80%) contained inconsistencies between the public website and the Form ADV and/or Form ADV Firm Brochure.

Preliminary Analysis

- Pervasive culture of “hat-switching” in the financial services industry
 - ❑ Majority of firms explicitly permit “hat-switching.”
 - 23 out of 25 largest dually registered IAs / BDs explicitly permit “hat-switching”
- Firms represent themselves as if they are fiduciary advisors that provide comprehensive, ongoing financial planning advice; however:
 - ❑ Form ADV Firm Brochures explicitly state that the financial planning relationship ends upon delivery of the plan;
 - ❑ Form ADV Firm Brochures explicitly state that the financial planning services do not address all aspects of a client’s financial life and that recommendations are of a generic nature (*i.e.*, very broad without offering advice regarding specific securities or other investments).
- Firms advertise as “fee-only” and report no commissions on Form ADV, but the Form ADV Firm Brochure reflects that the firms still have financial advisors who receive commissions on the sale of insurance and securities products.
- Firms advertise as being “transparent”, “independent”, “conflict-free”, “impartial”, and “un-biased” to the public; however, their Form ADV Firm Brochures report:
 - ❑ Conflicts of interest that they are not obligated to disclose to clients;
 - ❑ Limited range of products; and
 - ❑ Financial planning software that generally recommends proprietary products.

Misleading Advertising – Illustrative Examples

▪ Firm 1

□ Firm Website

- “An independent financial advisor is a professional practitioner who functions in a **conflict-free** environment. The benefits of using the services of an independent financial advisor accrue to the investor throughout the relationship.”
- “When designing your portfolio, we are free to consider all of the thousands of investment alternatives available today. There are **no artificial limitations** on which investments you can use since we are independent financial advisors.”

□ Form ADV Firm Brochure

- “As individuals of Firm are registered as representatives of a broker-dealer and/or as insurance agents/brokers of various insurance companies, **recommendations made in financial plans are limited to only those products offered through these companies.**”
- “While Firm and these individuals endeavor at all times to put the interest of the clients first as part of our fiduciary duty, clients should be aware that the receipt of additional compensation itself creates a **conflict of interest**, and may affect the judgment of these individuals when making recommendations.”

▪ Firm 2

□ Firm Website

- “After all of the alternatives and information is analyzed, a final plan will be presented to you. The final plan is a written document prepared especially for you by your planner. It contains **specific recommendations** designed to help you meet your financial goals and objectives.”
- “Each year and perhaps more frequently, your income, investments, assumptions, and objectives will change. This is why your Financial Planner stands ready to help **monitor and update your plan as needed.**”

□ Form ADV Firm Brochure

- “Firm offers only **periodic, generic** financial planning advice.”
- “Firm planners **conclude their role as financial planners for the client as soon as the financial plan is delivered to the client.**”
- “You can implement your financial plan through Firm or any unaffiliated financial institution of your choice. In this respect, the **financial planning relationship terminates upon delivery and explanation of the financial plan to you.** Any implementation through your Firm Planner is done in the

planner's capacity as a registered representative of Firm or one of its affiliates and/or an insurance agent of Firm and/or other affiliated or unaffiliated insurance companies. In acting in these other capacities **your Firm Planner is acting as a salesman.**"

- **Firm 3**

- Firm Website

- "The fee-based financial advisor, for the most part, is more of a strategist, **not existing on trading commissions and activity**, but developing a strategy designed around the client's goals and objectives. Thus, the strategist can be much more **focused on the design and implementation of a client's strategy** than what needs to be traded at any given moment."

- Form ADV Firm Brochure

- Form ADV – No commissions

- "Persons providing investment advice on behalf of our firm are licensed as independent insurance agents. These persons will earn commission-based compensation for selling insurance products, including insurance products they sell to you. Insurance commissions earned by these persons are separate and in addition to our advisory fees. **This practice presents a conflict of interest because persons providing investment advice on behalf of our firm who are insurance agents have an incentive to recommend insurance products to you for the purpose of generating commissions rather than solely based on your needs.**"

- **Firm 4**

- Firm Website

- "Best of all, we are FEE-BASED, which means our **compensation is tied to the performance of our client's investment accounts**. It's a true win-win relationship because it places equal weighting on capital preservation and investment returns."

- Form ADV Firm Brochure

- Form ADV - No commissions

- "If the plan is implemented through us, we may receive compensation from the sale of insurance products or advisory services recommended in the financial plan. This compensation would be in addition to the financial planning fee you pay. The fees and expenses you pay for the purchase of these products may be more or less than the expenses you would pay should you decide to implement our recommendations through another investment advisory firm or broker-dealer and are typically determined by the broker-dealer or investment company sponsoring the product. **Therefore, a**

conflict of interest may exist between our interests and your interests since we may recommend products that pay us compensation. We may have an incentive to recommend particular products based upon the potential compensation rather than your needs.”

- **Firm 5**

- Firm Website

- “Firm **supports disclosure** by agents and brokers of contingent compensation and has adopted an interim policy in this regard. Under the policy, **agents and brokers are to provide the customer with written disclosure** that they may receive contingent compensation (cash or otherwise) from the insurance carrier for the sale of the carrier's product. The disclosure should take place before or at the time the customer signs the formal application.”

- Form ADV Firm Brochure

- “When recommending the purchase of securities or other financial products, Firm and the Adviser Representative will be acting solely in the capacities of a securities broker-dealer and securities salesperson and not in the capacities of an investment adviser and financial planner, financial advisor or similar term. The change in the role from an investment adviser to a broker-dealer means Firm and its Adviser Representatives **may face conflicts of interests that are not obligated to be disclosed to the Advisory Client** and Firm’s interests may be different than those of the Advisory Client.”