FEATURES Fiduciary

Brokers accept proposed SEC rule on who can call themselves an adviser

Some say the rule will clear up investor confusion, but others say the SEC didn't go far enough.

April 19, 2018 *By Ryan W. Neal* 

2 MINS

Even though the Securities and Exchange Commission's new proposed advice rules could require them to make changes in the way they do business, some brokers acknowledged that the regulations are needed to clear up investor confusion about the advice industry.

Among other things, the rules address best interest standard, conflicts of interest and who can describe themselves as an adviser (or advisor).

Ron Carson, founder and CEO of the Carson Group, called the SEC's proposal a step in the right direction, but that it needs to go further and require everyone to act as a fiduciary.

(More: *Ron Carson: I'll leave Cetera if it's sold to LPL*)

"Unfortunately, a large majority of investors are under the impression that that is already the case, and are completely unaware that many of the financial professionals with whom they do business are under no obligation to prioritize their best interests," Mr. Carson said in an email.

Jim Dowd, the founder and CEO of North Capital Private Securities, also wished the SEC went further.

He added that the SEC's idea of preventing brokers and registered reps from calling themselves advisers could be the single biggest step toward improving the treatment of retail investors. Mr. Dowd said his firm keeps a clear delineation between its brokerage business and registered investment advisory business and said someone selling a product shouldn't be allowed to convey that they are doing otherwise.

"Anything that helps add some clarity and helps limit bad behavior on the part of the financial firms, it's a good thing," he said.

Doug Flynn, the the co-founder of hybrid firm Flynn Zito Capital Management, agreed that preventing brokers from calling themselves advisers could help clear up investor confusion and improve perception of brokers.

"I'm on the record saying there's nothing wrong with being a broker, and to stop confusion, stop people who are brokers from calling themselves advisers," Mr. Flynn said. "Right now it's just so blurred."

(More: *SEC advice rule raises bar for brokers by putting 'best interest' on table*)

Glenn Wiggle, a managing partner of Peak Brokerage Services, believes that the industry should be held to a uniform standard, and said it's been difficult for independent broker-dealers to navigate the various levels of suitability and best interest. The SEC, Mr. Wiggle said, is the right agency to provide the standard.

He also thinks the SEC's proposal is an improvement on the Department of Labor's fiduciary rule, which Mr. Wiggle said went "way over the top" when it came to conflicts of interest.

"Ultimately it was just way overbearing … an almost impossible standard to get to," Mr. Wiggle said, noting how some firms has simply closed up or sold their brokerage business because the threat of a lawsuit just wasn't worth the risk. "The DOL rule was really not well thought out. I welcome this replacement to it from the SEC."

Mr. Wiggle said he doesn't really mind a rule on who can describe themselves as an "adviser" as opposed to a "broker," but doesn't think it will do much in terms of providing clarity to investors. Between insurance agents and registered reps and dual-registered brokers and RIAs, clients are confused enough to begin with.

"I don't blame them for attempting, I guess," Mr. Wiggle said. "Things like targeting broker-dealers not being able to use 'adviser' in some cases muddies the water more instead of making it clearer."

Senior columnist Jeff Benjamin contributed to this story.