DOL Fiduciary Standards

What you need to know about your investment advisor's role in acting in a fiduciary capacity.

JAMES CLAIBORNE

FINANCIAL PARTNERS GROUP

Secure your future

How to Know If Your Advisor Is Bound by A Fiduciary Standard

By: James Claiborne CFS, ChFC
President/CEO Financial Partners Group

First, let’s start with a summary definition of what a fiduciary is. Basically, a fiduciary is a person or organization that is obligated to another the duties of **good faith** and trust. For conversation as it relates to working with a financial advisor, this should be considered the highest legal duty in a client/advisor relationship. Someone acting as a fiduciary is typically involved with the finance side or management of assets but might also be responsible for general well-being of another person, or of a group of people.

- Investment advisors, who are usually fee-based, are bound to a fiduciary standard that was established as part of the **Investment Advisors Act of 1940.** and can be regulated by the SEC or state securities regulators. Inside the Investment Advisors Act of 1940 there is a **duty of loyalty** and care, which simply means that the advisor must put their client's interests above their own. There is also an involvement of being bound ethically to act in the other's best interests. Best interest is defined as investment advice when the advisor or financial institution is acting with “the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person would exercise.”

There are certain guidelines the nonprofit **Foundation for Fiduciary Studies** established to define prudent investment practices that involve organizing, formalizing, implementing and monitoring but here are a few duties and examples of what **does not make** an advisor a fiduciary.

Investment advisory services offered through Financial Partners Group, Inc., an SEC registered investment adviser. Custody and other brokerage services provided to clients of Financial Partners Group, Inc. are offered by Fidelity Brokerage Services LLC, Member NYSE/SIPC. Securities offered through Mutual Securities, Inc., Member FINRA/SIPC. Supervisory office located at 807-A Camarillo Springs Road, Camarillo, CA 93012. Financial Partners Group, Inc. are not affiliated with Mutual Securities, Inc

Secure your future

1. Using discretion to simply execute a transaction on behalf of a client.

Advice is "based on the investment objectives, risk tolerance, financial circumstances and needs of the retirement investor," given "without regard to the financial or other interests of the advisor, financial institution, affiliate, related entity or other party."

2. Simply making investment recommendations without receiving direct or indirect compensation.

A **due diligence** process must be designed to evaluate potential investments. The due diligence process should identify criteria used to evaluate and filter through the pool of potential investment options. If the investment decision makers in an organization have left, or if their level of authority has changed, then investors must consider how this information may impact future performance.

3. Monitoring performance statistics only.

Fiduciaries must also monitor **qualitative data**, such as changes in the **organizational structure** of investment managers used in the portfolio. If the investment decision makers in an organization have left, or if their level of authority has changed, then investors must consider how this information may impact future performance

Investment advisory services offered through Financial Partners Group, Inc., an SEC registered investment adviser. Custody and other brokerage services provided to clients of Financial Partners Group, Inc. are offered by Fidelity Brokerage Services LLC, Member NYSE/SIPC. Securities offered through Mutual Securities, Inc., Member FINRA/SIPC. Supervisory office located at 807-A Camarillo Springs Road, Camarillo, CA 93012. Financial Partners Group, Inc. are not affiliated with Mutual Securities, Inc

4. Recommending investments without consideration of other share classes that may be available at a lower expense.

Fiduciaries are not only responsible for how funds are invested, but they are also responsible for how funds are spent. Investment **fees have a direct impact on performance** and fiduciaries must ensure that fees paid for **investment management** are fair and reasonable. This means exploring all different share classes offered by a mutual fund company, index or Exchange Traded Fund(ETF) and presenting the best share class available with the lowest internal expense ratio. Many advisors do not have access to an alternative share class of a particular mutual fund that may provide lower internal expense charges.

5. Working from a standardized implementation process once investment options have been identified.

The implementation phase is where specific investments or **investment managers** are selected to fulfill the requirements detailed in the investment policy statement. A **due diligence** process must be designed to evaluate potential investments. The due diligence process should identify criteria used to evaluate and filter through the pool of potential investment options.

The implementation phase is usually performed with the assistance of an investment advisor because many fiduciaries lack the skill and/or resources to perform this step. When an advisor is used to assist in the implementation phase, fiduciaries and advisors must communicate to ensure that an agreed upon due diligence process is being used in the selection of investments or managers.

Investment advisory services offered through Financial Partners Group, Inc., an SEC registered investment adviser. Custody and other brokerage services provided to clients of Financial Partners Group, Inc. are offered by Fidelity Brokerage Services LLC, Member NYSE/SIPC. Securities offered through Mutual Securities, Inc., Member FINRA/SIPC. Supervisory office located at 807-A Camarillo Springs Road, Camarillo, CA 93012. Financial Partners Group, Inc. are not affiliated with Mutual Securities, Inc

Secure your future