

## What is a Registered Investment Adviser?

A “fiduciary” is a person or entity that manages money for the benefit of another called a “**BENEFICIARY**”. A **FIDUCIARY** is bound by law to place the interests of its beneficiary **FIRST** – before the fiduciary’s own interests.

You are wrong if you would think that anyone offering financial advice to their clients is a fiduciary. Stockbrokers (also called “Registered Representatives”, “Account Executives”, “Financial Advisors” or “Wealth Managers”) and Certified Financial Planners (CFP) affiliated or employed by broker-dealers are **NOT** fiduciaries, even though they have engaged in high-visibility advertising to portray themselves as full-service financial advisors. <sup>(1)</sup>

A Registered Investment Advisor (“**RIA**”) subject to the Investment Advisers Act of 1940, is a **FIDUCIARY**. <sup>(2)</sup>

The legal investment advising standards that govern a **NON-FIDUCIARY stockbroker** and a **FIDUCIARY RIA** are very different.

- A **NON-FIDUCIARY stockbroker** follows only the “suitability” standard, which does not require a stockbroker to place the interest of its clients ahead of its own. Under the **NON-FIDUCIARY** suitability standard, a stockbroker need provide only “suitable advice” to its clients – *even if the stockbroker knows that the advice is not the best advice of the client.*
- A **FIDUCIARY RIA** must follow the “trust” standard – the highest known in law – which requires it to place the interests of its clients ahead of its own and fulfill critical fiduciary duties of trust and confidence. *Under the fiduciary trust standard, a Registered Investment Advisor must provide its “best advice” to a client.*

Even if a **NON-FIDUCIARY stockbroker** wanted to follow the “trust” standard of law and become a fiduciary to its clients, it cannot do so because of the contract it has with its broker-dealer. Such contracts require the stockbroker to place the interests of the broker-dealer before the interests of the stockbroker’s clients.

**A stockbroker owes fiduciary duties ONLY to its broker-dealer – not to its investment clients. A RIA owes FIDUCIARY duties only to its investment clients because it does not have a broker-dealer.**

Stockbrokers, subject to the Securities Exchange Act of 1934, maintain that they are regulated heavily by the Securities and Exchange Commission (“SEC”), the National Association of Securities Dealers and or the various agencies in the states in which they do business. None of this less strict regulation concerning the “suitability” standard, though, registers stockbrokers with the SEC as investment advisors under the more strict regulation concerning the “**FIDUCIARY**” standard of the Investment Advisers Act of 1940.

The critical difference between a stockbroker and a **RIA** is that the **RIA** is subject to the high fiduciary legal standard when providing advising services while the stockbroker is not.

NOTE: (1) To be considered a **FIDUCIARY**, a certified financial planner (“CFP”) cannot be affiliated or employed with a broker-dealer.

(2) In Supreme case “SEC v. Capital Gains Research Bureau, Inc. – 375 US 180 (1963), the court justice rules that RIA is recognized as a fiduciary.

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