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# DODD FRANK

CONGRESS TAKES A CLOSER LOOK AT HOW MONEY MEN WORK WITH YOU.



AFTER THE DEMISE OF THE FINANCIAL SECTOR—STOCK MARKET CRASH, ENRON AND WORLD.COM SCANDALS, HOUSING MARKET COLLAPSE, MADOFF PONZI SCHEME, ETC.—IT'S NO WONDER THAT THE PUBLIC IS SKEPTICAL ABOUT ENTRUSTING THEIR MONEY TO INDUSTRY REPRESENTATIVES. MANY DON'T UNDERSTAND THE DIFFERENT ROLES FINANCIAL PROFESSIONALS CAN PLAY, OR THE AMOUNT OF EDUCATION THEY SHOULD HAVE. IT'S IMPORTANT FOR CONSUMERS TO KNOW AS MUCH AS POSSIBLE ABOUT THEIR FINANCIAL PLANNERS AND HOW THEY WORK. AND WHILE THE AVERAGE PERSON DOES A BIT OF HOMEWORK, CONGRESS IS WORKING TO ENSURE ANYONE WHO DUBS HIM/HERSELF AS A FINANCIAL PRO IS PUTTING THE CONSUMERS' BEST INTERESTS FIRST.





## They were watched, but were they watched closely enough?

**W**NE CAN SURMISE THE FEAR that ripped through the minds of many during the fall of 2008 closely mirrored the pandemic anxiety people had during fall of 1929 when the stock market crashed, throwing the United States into the worst financial depression in the nation's history. And, today, while the nation continues to struggle through the infancy stages of recession recovery, those who played a large part in the economic downfall are just learning of the transformation their industry may soon undergo.

From the Great Depression came a structure of financial regulations that

**PLANNERS FOLLOWING THE  
FIDUCIARY STANDARD MUST  
DISCLOSE ... ANY CONFLICTS  
OF INTEREST.**

are still in play today—the Securities Exchange Act of 1934 and the Investment Advisers Act of 1940. The 1934 Act created the Securities and Exchange Commission (SEC) as the governing body of the financial sector, as well as Self Regulatory Organizations (SROs), to oversee and regulate financial broker-dealers and brokers—requiring them to follow a suitability standard of care. The 1940 Act set the standard for investment advisers to follow the fiduciary standard of care.

For the longest time, brokers and

TOP

## Financial Professionals

IN NoVA

### METHODOLOGY:

In this day and age finding the right person to help manage your money is tough, and with reports of financial crises, Ponzi schemes and stock market volatility, one may seriously think of just stashing the money in the good ol' mattress.

As a way to help you make an informed choice in finding a competent, ethical and trust-worthy professional, we asked NoVA financial professionals to suggest who they think is providing top-notch service in their respective field.

To compile the following lists, we turned to the D.C.-based 501(C)(3) Certified Financial Planner Board of Standards, Inc., which grants and upholds the CFP(r) designation as the recognized standard of excellence in personal financial planning. With their input we compiled a list of financial services for which people in our region tend to seek advice. Using data provided by CFP Board, we asked CFP(r) professionals and other finance pros in NoVA to nominate peers.

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## GLOSSARY:

**INVESTMENT ADVISERS ACT OF 1940 (IAD ACT)** set up the rules and regulations for investment advisers.

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**THE SECURITIES EXCHANGE ACT OF 1934 (1934 ACT)** governs the trade of securities, created the Securities and Exchange Commission (SEC), set rules for broker-dealers and led to the creation of SROs.

**SUITABILITY STANDARD OF CARE (SUITABILITY)** allows the planner to not necessarily choose options based on the consumer's best interest but to choose what is suitable for the consumer.

investment advisers followed two different codes of services: fiduciary and suitability, with the fiduciary standard of care being the highest level of care a financial planner can give to the consumer. Both standards mandate the planner disclose information to the consumer, with fiduciary standards requiring planners to disclose any conflicts of interests; mention if there is a product that would suit the consumer better than that which the consumer already has (even if the planner does not offer that product); and identify any risk that is involved with the product. The suitability standard states that the planner, usually brokers, do NOT have to disclose everything to the consumer, only offer the consumer enough suitable information—leaving room for conflict of interest.

There are, however, a few key differences in the way investment advisers and brokers do business. Investment advisers do just what their title

they sell—whether it's by the product, the number of which the broker sold, or the size of the product.

Unfortunately, the 1934 and 1940 Acts did not adjust as the financial world transformed, and different careers, such as financial planners, emerged as did different ways for financial professionals to do business. And in the late 1990s and early 2000s, the market saw credit default swaps and the use of synthetic derivatives.

As Bryan Beatty, financial planner and partner of Egan, Berger & Weiner, LLC, in Vienna, says, "They haven't done any real work on the regulations to sort of control any behavior to [the] client adviser since the 1940 Act. [The Dodd-Frank Wall Street Reform and Consumer Protection Act] is going to change the industry."

While the SEC and individual states regulate investment advisers, broker-dealers and brokers, The Financial Industry Regulatory Authority (FINRA)

**THE SUITABILITY STANDARD OF CARE MEANS THAT [THEY] DO NOT HAVE TO DISCLOSE EVERYTHING TO THE CONSUMER.**

says they do: They give advice on clients' investments; while brokers generally sell a product. Investment advisers typically get paid by the advice they give, and brokers by the products

helps by regulating brokers-dealers and brokers. Yet, with all of these regulators it is no surprise there is confusion. And it is no wonder that schemes as big as those of Enron and WorldCom-



Glassman advises, "I would suggest to people to look for advisers who are like them. Personality, relationship, is really important. It is critical that the investor feel they can bring up concerns in good times and bad."

This financial world is very difficult to understand, and the recent recommendations do not make it any easier to understand. The studies of the Dodd-Frank Act did not set any new regulations, only recommendations. The SEC and Congress still have a lot to discuss, and the consumer should not be taking this lightly. "[Consumers should] stay on top of it and read as much as they can on the topic and what is happening with what the proposed rules coming out of the Dodd-Frank studies," suggests Robinson. "Consumers should be worried if nothing comes from the studies and no real action is taken."

In a study that was conducted by the Infogroup/ORC, most Americans are confused about which financial professionals must follow a fiduciary standard of care. It also states that about 91 percent believe that financial professionals follow the same standard of care. It is impera-

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tive that the consumer understand what is going on with Study 913 and Study 914, understand how their financial planner is getting paid, and understand the mandates placed on financial professionals through fiduciary and suitability standards of care.

For consumers, it is important that they can trust the financial planner with their assets. The CFP Board offers a listing on their website at [www.cfp.net](http://www.cfp.net)—also see the top financial planners within this issue—and most have adopted a fiduciary standard of care.

"People in our industry should be held to the high and consistent standard; and if we could do that, the general public will benefit from that," says Robinson. ■

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