

THE CASE FOR INVESTMENT OBJECTIVES

- By Mary Ann Golin, CFP, CRPC

The SEC has long recognized a need for ongoing broker-client contact. NYSE Rule 405 says brokers must know their clients and the NASD incorporates the SEC Acts of 1933 and 1934 in their Rules Manual. In 2003, the SEC modified the 1934 Act to require that every account be updated as to investment objectives within 30 days after receiving notice of an objective change or if the account was updated for other reasons¹.

The change additionally required a written customer notification of investment objectives and an explanation of terms regarding investment objectives. The written notice account record must also prominently indicate a way for the client to correct or add to this client information. The change allows the member firm to include this written notice either as a separate mailing or with the next scheduled client statement. As early as 2001, some member firms, knowing that the new requirements were pending, updated their client statement formats and began printing the client risk tolerance and investment objectives right on the monthly client statement.

Failure of a member firm to send written client profile updates has proven to be a major mistake as demonstrated by a recent Midwest Region NASD panel finding and award. Although the events in the case occurred just prior to 2003, the case turned in part on updating client investment objectives for a person who retired early. When evaluating suitability in a prospective case, the documents to look for first are the updated client profiles sent to the client by the member firm. Such written communications are not only required, they are a good way to keep the lines of communication open between brokers and clients.

Assuming an established broker-client relationship, the broker must continuously reach out to the client and ask what is going on in the client's life. For example, discussing a client's children provides insight regarding the financial responsibilities parents face. Whether it is a planned medical procedure such as dental work or a particular education requirement, if the broker knows there is a need, then a provision can be made and the client profile updated. In other situations, it is appropriate to ask about how things are going at work. In today's economy, the average worker changes jobs 11 times whereas 20 years ago it was less than 4 times². People are also retiring earlier than ever. When these life events occur, there must be a review and update of investment objectives and the client must be notified of the update. As noted above, panels are increasingly intolerant of brokers who do not stay in touch with clients and who are not informed about what is going on in their clients' lives.

¹ SEC Act of 1934 §240.17a-3(17)(i)(B), paragraphs (1), (2), and (3)

² National Bureau of Economic Research, February 2000

Regardless of which side of the arbitration process is involved, it is important for the broker to stay informed about the client's circumstances and to keep the client profile updated. By following up on investment objectives, the client can receive better and more appropriate advice and perhaps a law suit can be avoided.

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