From: Tom Barton
Sent: Friday, July 30, 2010 10:07 AM
To: Rule-Comments
Subject: Input on File Number S7-15-10

Wow! Never thought I'd be giving advice to the SEC but thanks for requesting info. On page 124, you asked for comments: "Are asset-based distribution fees associated with level load share classes an efficient means to pay for ongoing investment advice?"

You way over-rate how knowledgeable the average investor is or wants to be. They would prefer to go to someone they trust and would prefer the advisors do whatever they want to in the best interests of them. Now, we all know regulations don't allow for that and so forth. But that's really how it plays out.

Therefore, you need to have a structure in place via regulation that keeps things fair for the investor. If you rely on the investor to pick their own medicine, they won't know where to begin, will look at the advisor for advice, and the unscrupulous advisors will take advantage and the honest advisors will once again be the only ones to pay the price for regulation. You can't regulate a crook, and in the mean time, we honest advisors playing by the rules suffer from added overhead expense and loss of time by having more hoops to jump through to do what we'd do anyway for our clients: the right thing.

I want to premise this by saying I describe my busienss as "A's, fees, and C's". It certainly depends on what's appropriate for the investor.

Regarding A and C-shares: A shares are the ones that really cue up the most problems. All you need to do to get a hefty paycheck is sell someone once. That's easy to do. So many second-rate advisors give an investor a hard sell once, pick up their 5.75% on an A-share, and the investor never hears from them again. Advisors who work with C shares aren't compensated for selling someone something (we only get 1%); we're compensated for ongoing service and performance. If the investor gets tired of the C share after a couple years, they dump it with no prohibitive fees or the sting of having paid a whopper of a front load.

I'd argue that the .25% ongoing 12b-1's in A's isn't much incentive to the advisor. By the time they give the brokerage firm roughly 60% of that and pay taxes, there isn't much there. This is particularly bad for the small investor who gets the hard sell from a poor advisor and pays a front fee in an A-share but later wants to move their account. Let's take $20,000, a fair amount for a main stream investor. They pay 5.75% on an A-share, so they pay the shady advisor a whopping $1,150 for nothing other than the sell, maybe a couple hours work start-to-finish. They then never hear from them again. A couple years later when the investor figures it out, their account is barely back to $20k after recovering from the front load and they want to transfer. But the 12b-1 at .25% only pays out 50 bucks. $50! And after the new advisor gets their 40% payout, they're left with $20, and after taxes it's maybe $13. So what good advisor would be eager to take on that client? The original A-share sale caused the problem.

If the account had been in C's all along, the shady advisor would have gotten $200 rather than $1,150 and the next advisor would have received reasonable compensation to provide ongoing advice to the client. It's expensive and time consuming to advise clients, particularly small ones who are often less knowledgeable. To allow for no real compensation in the scenario above is really to the detriment of the investor. And if shady advisors could no longer get a hefty front load payday without providing a lick of service, we'd have fewer shady advisors in the business.

Realize the advisor failure rate in my industry is over 90%. Very few people are capable of being financial advisors. We run a lot of risk in our industry. And it's hard. So there has to be good compensation for doing what we do. But it has to be fair. A shares are less fair than C shares because the way it plays out, investors feel pigeon-holed or "married" to their purchase and the previous advisor long after the fund has gone bad or the advisor has started ignoring the investor. When I place a client in a C-share, I talk at length about the fees, but what the client REALLY cares about is there's no big chunk they pay me up front for a sales pitch, they can sell them at any time for either a minor fee (1% first year) or no fee, or if they've really had it with me, they can take their funds and the accompanying trail to another advisor should they lose faith in me. You could make a good case that all funds industry-wide should be distributed as C shares.

C shares are simply one of many great tools for clients.

I'd be glad to talk more about this. Your proposal is lengthy, but I was quite impressed with the request throughout the document for more input. Advisors like me in the trenches aren't all bad and I'd love to offer more to make our industry better. Thanks for all you do!

Tom Barton