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Investing in Funds: A Quarterly Analysis --- Adviser Alert

Subpar Subprime Advice?

Financial advisers are getting tangled in the meltdown of the subprime-mortgage market. At least two small, individual investors have filed claims against their brokers for overstuffing their portfolios with stocks in mortgage companies that dealt heavily in loans to homeowners with poor credit histories or little documentation.

One investor filed an arbitration claim with the Financial Industry Regulatory Authority in December seeking \$150,000 from Oppenheimer & Co., a New York-based unit of Oppenheimer Holdings Inc. A similar claim filed in May seeks \$295,000 from Investors Capital Corp., a Lynnfield, Mass., unit of Investors Capital Holdings Ltd. Both investors are represented by Jake Zamansky, a principal at the law firm Zamansky & Associates in New York.

Both claimants allege that their brokers should have known that the mortgage-company stocks they pushed were facing a meltdown. Neither broker is named as a defendant in the claims.

Brian Maddox, an Oppenheimer spokesman, said the firm believes the claim is without merit. Steven Preskenis, general counsel and chief operating officer at Investors Capital Corp., said in a statement that the client involved

had extensive investment experience and wanted to increase his income.

It is unclear whether these are unusual cases or the start of a flood of litigation by small investors. The answer could be critical to financial advisers, who so far have weathered the subprime storm relatively safely. Arbitration claims by small investors against brokerage firms soared after the technology-stock bubble burst in 2000.

Title Check

The Financial Industry Regulatory Authority is starting to evaluate complaints by investors about brokers who hold any of three popular designations that imply expertise in working with seniors and retirees.

Susan Merrill, the agency's enforcement chief, says her staff is evaluating the requirements behind the three most popular senior-related designations: Chartered Retirement Planning Counselor, Certified Senior Advisor and Chartered Advisor for Senior Living. The agency also is compiling the records of complaints against advisers who hold those designations, to see whether any patterns exist.

Many of the more than 50 titles that imply expertise in advising seniors or retirees reflect training that shows advisers "how to sell to this market" rather than how to help clients, says Jean Setzfand, director of financial security for AARP, the Washington-based advocacy

group for people 50 years old and older. The providers of the titles Chartered Retirement Planning Counselor, Certified Senior Advisor and Chartered Advisor for Senior Living say the coursework for students is rigorous and substantive.

Protecting retired and elderly investors from unscrupulous advisers has become a focus of state, federal and financial-industry regulators, in part because of the waves of baby boomers beginning to retire. Securities and Exchange Commission Chairman Christopher Cox said in November that the commission's priorities in 2008 will include a push to weed out fraud against seniors.

Monitoring Internet Videos

Lights, camera. . . . Not so fast.

Posting videos on the Internet might seem like a quick, cheap and easy way for financial advisers to advertise their businesses. But advisers should remember that no matter how do-it-yourself their YouTube videos may be, they're still considered advertising and therefore need to be reviewed by the firms' compliance departments. And regulators will hold the content to the same standards they apply to more-traditional ads.

At least one adviser, Tom Scott, an Irvine, Calif., broker with Linsco/Private Ledger Corp., has been under investigation by Florida securities regulators for a series of videos in

which he talks about his investment strategies. The most popular one -- titled "Invest Like Warren Buffett!" -- has been viewed more than 3,200 times since he posted it on YouTube in April.

Mr. Scott says his videos were approved by his firm. LPL declined to comment.

The Financial Industry Regulatory Authority requires firms to look at their advisers' advertising material to ensure that it doesn't include misleading, exaggerated or false claims. Last year, regulators published guidance on how to review and supervise electronic communications in light of changing technology. The notice, number 07-59, can be found at Finra.org, by clicking on "Notices" under "Top Links."

More Advisers

There are 23% more registered investment-advisory firms today than in 2005. But contrary to common assumptions, this growth hasn't been fueled primarily by a migration of financial advisers from large brokerage firms, according to a report by Boston-based research firm Cerulli Associates.

Many new investment advisers are professionals from other fields starting second careers. Just a quarter of today's registered investment advisers were formerly stockbrokers, according to Cerulli. And just a quarter of that subset were employed by large brokerage firms.