

RESEARCH SUMMARY

“Brokers” versus “Advisers”—Regulating Financial Services Titles: Begin with What Consumers Already Know

Many individual investors rely on financial services professionals for their investment decisions. However, the financial services industry can be hard to navigate. One potential source of confusion is the common usage of the title “financial adviser” among professionals with significantly different job functions and obligations to the consumers they serve.

This has led to calls for federal and state agencies to regulate the use of industry titles. The Securities and Exchange Commission (SEC) recently abandoned a proposal to prohibit the use of the term “adviser” by representatives of a broker-dealer. The purpose was to distinguish brokers (who do not have a legal obligation to act in the best interests of their clients) from advisers (who are held to a fiduciary standard when working with clients). Although the SEC proposal was not adopted, the idea remains alive and well, and similar proposals may be reintroduced in the future or state governments may adopt them.

In “[Consumer Perceptions of Financial Advisory Titles and Implications for Title Regulation](#),” Derek T. Tharp uses a survey to examine how US consumers perceive commonly employed titles. His findings suggest that titles do influence how consumers form expectations about the service level of investment professionals. What is more, consumers were asked to group investment-related titles with professions in other domains, and they grouped financial advisers with doctors and lawyers, whereas they grouped brokers with insurance salesmen and car dealers.

These findings seemingly support the regulation of titles. But this conclusion should be tempered with the second insight of this study. In the survey, Tharp tested consumer attitudes toward fabricated titles and found that it was relatively easy to introduce new titles that consumers would group with advice-oriented professions.

“SAFE HARBOR” AS AN ALTERNATIVE FORM OF TITLE REGULATION

That titles matter—and that good titles are easy to fabricate—presents a challenge to agencies that wish to regulate by prohibiting the use of certain titles. A cat-and-mouse enforcement game may result in which firms adopt new and positively perceived titles that are not on the regulators’ blacklist, to which regulators respond by updating their list, only to have firms introduce new titles. The potential for repeatedly shifting terminology may result in even greater consumer confusion.

With a “safe harbor” approach, specific titles could be approved for use by the SEC, state regulators, or both, while new terminology would not be specifically prohibited. The approval should attach the responsibilities and obligations to the consumer for each title. This policy may prove to be more stable than prohibition of specific titles because titles in the safe harbor would become standard in use and meaning. Firms will have little incentive to offer their services under creative titles outside the standard because unusual titles, rather than attracting consumers, would alert them that something is afoot. In turn, titles with standard use and meaning should provide the clarity that is characteristic of well-functioning markets.