

Choosing an Advisor: A Legal Perspective

By Ruth Calaman

Introductions to wealth management firms are typically made by family members, friends, and through other referrals. You may meet with these individuals and their colleagues on multiple occasions, hear about their capabilities, read their sales and marketing information, and enjoy very pleasant conversations in the process. But have you asked the right questions?



Here are 10 questions a legal or compliance professional would consider when conducting due diligence of an investment advisory firm and its professionals.

WHAT IS THE FIRM'S OWNERSHIP STRUCTURE?

This is an important topic, one that can speak to the stability, resources, efficiency and personal service of the firm. Start by asking the advisor, but keep in mind that the bigger the institution, the less an individual advisor may know about the structure, his or her colleagues and their clients. So check out the firm's ADV, a filing required of investment advisors by the U.S. Securities and Exchange Commission and state securities authorities. Form ADV consists of three components, the first of which details information about the investment advisor's business, ownership structure, employees dedicated to providing investment services, business activities, affiliations with other companies, participation or interest in client transactions, whether the investment advisor maintains custody of assets and any disciplinary events of the advisor or its employees.

Evercore Wealth Management is 63% owned by Evercore, the global investment banking advisory firm (NYSE: EVR), and 37% by the firm's partners. Evercore Trust Company, N.A. is a wholly owned subsidiary of Evercore.

WHAT IS THE FIRM'S FEE STRUCTURE? AND HOW OFTEN ARE ACCOUNTS REVIEWED?

Form ADV Part 2A – also known as the firm's "brochure," contains similar but more descriptive information to the Form ADV Part 1. This document includes information about the investment advisor's activities, such as how the advisory services are conducted, how often accounts are reviewed, the advisor's fee schedule, details of any disciplinary information, conflicts of

interest, affiliations with other companies, a summary of the advisor's code of ethics, how the advisor votes proxies and its trading practices. This brochure is the primary disclosure document that investment advisors provide to their clients.

Evercore Wealth Management's ADV parts 1 and 2 can be viewed here: <https://adviserinfo.sec.gov/Firm/148399>.

HOW MANY CLIENTS DOES THE FIRM SERVE WHO ARE IN SIMILAR SITUATIONS TO YOUR OWN?

The ADV provides information on the firm's clients by number and type, but you will have to ask advisors – and ask around – for more detailed information to ascertain the fit. Consider asking for suitable referrals, as well. Many firms focus on particular geographies or sources of wealth. Evercore Wealth Management serves approximately 600 client relationships across the United States, with a wide range of backgrounds, risk parameters and asset levels.

DOES THE FIRM OR ANY OF ITS PROFESSIONALS HAVE CONFLICTS OF INTEREST THAT YOU SHOULD BE AWARE OF?

Every investment advisor registered with the SEC is required to adopt a code of ethics that sets forth standards of conduct expected by employees of the firm and addresses conflicts that arise from personal trading by investment advisor professionals. Among other things, an investment advisor's code of ethics requires investment advisor employees to report their personal securities transactions, outside business activities, gifts and entertainment and political activities. In addition, it sets forth standards for maintaining confidentiality of non-public personal information. The code also typically describes how the firm promotes compliance with fiduciary standards by the investment advisor and its professionals.

Although a firm's code of ethics is not available publicly, it should always be available upon request. If you would like to obtain a copy of Evercore Wealth Management's code of ethics, please contact your Wealth and Fiduciary Advisor.

WHO WILL YOU WORK WITH ON A DAILY BASIS, AND WHAT IS THEIR EDUCATIONAL AND PROFESSIONAL BACKGROUND?

Wealth management is a relationship business, and you should feel that you enjoy communicating with your advisors and that you have confidence in their judgment. So meet them in person, trust your instincts – and then verify. Start with a review of the firm's website. In particular, you may want to review the bios of the professionals you will be working with and compare it to the information contained in the Form ADV Part 2B brochure supplement. Does the information match? Are you comfortable with the person's background? Does the individual have any professional designations or securities licenses of interest?

In addition, you may consider conducting an internet search to review for any newsworthy articles about the firm or its employees that will give additional insights into their activities and interests, such as awards and accomplishments, charitable involvement and board memberships.

HAS THE FIRM OR ANY OF ITS PROFESSIONALS BEEN INVOLVED IN ANY LEGAL OR REGULATORY PROCEEDINGS THAT MAY BE RELEVANT TO YOUR DECISION?

In addition to examining the firm's ADV, you can also research specific professionals on <https://brokercheck.finra.org> to see if they ever held a securities license. If so, you can review their employment history, regulatory actions, investment related licensing information, arbitration and

any complaints as well as any personal disclosures all in one place.

IS THE FIRM FINANCIALLY SOUND?

If the firm is a public company or associated with a public company, you can likely access its annual regulatory filing, or 10-K, by searching its website under investor relations. The 10-K is a comprehensive report of a public company's performance that is submitted annually to the SEC. It provides an overview of the company's business and main operations, discusses risk factors associated with that business, and provides financial data and other disclosures. You may want to direct your attention to the "Legal Proceedings" discussion of the 10-K to read about any material legal matters facing the firm. In addition to the 10-K, you may also wish to review the firm's proxy statement, which contains detailed information about a firm's executives and board of directors, including compensation, and the makeup of the firm's stock ownership.

Evercore's annual report can be viewed on www.evercore.com or <http://investors.evercore.com/phoenix.zhtml?c=66653&p=irol-sec>.

If the firm is associated with a federally chartered trust company or bank, you can review the bank's income statement, balance sheet, capital structure and other financial information on the Federal Financial Institutions Examination Council's website, www.ffiec.gov. Banks and trust companies are required to file a quarterly "call report" of their financial condition. In these reports you can check on your bank's capital strength under schedule RC-R. For a bank chartered by the Office of the Comptroller of the Currency, a well-capitalized bank should have a Tier 1 Capital Ratio of 8% or more. You can also review schedule RC-T to understand the breakdown of trust and fiduciary accounts your trust company manages.

Evercore Trust Company's Call Report can be found by Choosing "Call" under "Report" and entering "Evercore" under "Institution Name" here: <https://cdr.ffiec.gov/public/ManageFacsimiles.aspx>.

DOES THE FIRM MAINTAIN CUSTODY OF YOUR ASSETS?

It's important to understand how a firm holds client assets and whether they are custodied in-house, with an affiliate, or outsourced to a third party. Furthermore, understanding whether an affiliate custodian is a bank or broker-dealer could be significant in the rare case that a financial firm may close or go out of business, or should it become necessary to rely on an institution's insurer.

Client assets custodied at Evercore Trust Company are fully segregated from Evercore Trust Company's entity assets and liabilities. Ownership of client assets held at Evercore Trust Company remain vested in the individuals or entities for whose benefit Evercore Trust Company is acting as trustee, agent or custodian.

HOW WILL YOUR INFORMATION BE USED AND CAN YOU CONTROL ITS USE?

To understand how a firm uses your non-public personal information, you will want to review their privacy policy, which is typically found in the firm's privacy notice or disclosure. Usually this notice is found on the website, along with other required disclosures. This document will provide insight into what information is gathered and retained, how it is stored, how it is used and whether it is shared. It will also give you information on what you can do to limit the sharing of your information, if possible.

Evercore Wealth Management and Evercore Trust Company are committed to safeguarding the privacy of information we receive and maintain about our

clients. We do not and will not sell personal information about our clients to anyone for any reason, at any time. Our privacy policies can be found here: <https://s3.amazonaws.com/evercore-clouddeploy/ewm-prod/wp-content/uploads/2018/09/12105039/EXHIBIT-A-Privacy-Policy-Notice.pdf>.

DOES THE FIRM HAVE AN ADEQUATE BUSINESS CONTINUITY PLAN TO SAFEGUARD YOUR ACCOUNT IN THE EVENT THAT THERE IS AN UNEXPECTED DISRUPTION TO REGULAR BUSINESS?

Financial firms are required to have a business continuity plan in place that sets forth what they will do and how they will respond to events that may significantly disrupt their business. Although many firms, especially those associated with a broker-dealer, maintain a summary disclosure of this information on their websites, you may receive a copy of the actual plan document upon request. At a minimum, you should read any publicly available disclosure carefully to ensure you understand what will happen in the event of a disruption and to gain comfort that your assets are in safe hands.

At Evercore Wealth Management and Evercore Trust Company, N.A., all of this information is available to you either at our website or upon request.

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