

The New US Financial Reform Act Passes: What Does It Mean For Expatriates?

By Don Freeman

First proposed at the end of 2009 in response to the recent financial meltdown, the Dodd–Frank Wall Street Reform and Consumer Protection Act was signed into law by President Barack Obama on July 21, 2010. The new law is the most sweeping financial regulatory reform or change since the Great Depression and was designed to shift power from Wall Street to Washington DC in order to prevent future financial crisis. The Act will have global repercussions for investors and investment advisors worldwide as it represents a major shift in the American financial regulatory environment that will impact nearly every aspect of the financial services industry in the USA.

Overview of the New Financial Reform Act

The financial reform Act itself contains the following major provisions or changes that will impact both financial services firms and consumers alike:

- **Financial “Early Warning” System.** The Act creates the Financial Services Oversight Council that is intended to act as an early warning radar system to detect any trouble in the financial markets.
- **Stronger Regulation of Financial Firms.** The Act establishes much tighter restrictions on proprietary trading and banks will not be allowed to place bets on the market for their own profits rather than that of their customers.
- **New Consumer Watchdog Group.** The Act creates the Consumer Financial Protection Bureau within the Federal Reserve to enforce existing consumer-oriented financial regulations that impact big financial firms and mortgage-related businesses as well as payday and student lenders.
- **Mortgage Reforms.** The Act will require banks and financial services firms to review the income and credit histories of mortgage applicants in order to ensure that they can actually afford mortgage payments. Moreover and as an incentive to make better loans, financial firms that resell mortgages into pooled investments will be required to keep at least 5% of the pooled investments on their books.

Understanding Your Investment Advisor’s Professional Principles

In addition to the broad and sweeping changes outlined above, consumers (especially investors who reside abroad) need to fully understand how the new Act impacts their investment advisors and the advice that they give. Independent registered investment advisors or RIAs (investment advisors registered with the USA Securities and Exchange Commission or SEC) must already follow certain professional standards that require them to put their client’s interest first rather than their own interests. These professional standards include:

1. Put the client’s best interest first.
2. Act with prudence; that is, with the skill, care, diligence and good judgment of a professional.
3. Do not mislead clients; provide disclosure of all important facts and fees.
4. Avoid conflicts of interest.

On the other hand, other types of investment advisers who are not RIAs operate under a lower standard of “suitability” where a client’s investment should be considered appropriate but beyond that, it’s the client’s responsibility (the old “buyer beware” principle) to ensure that they are receiving the best investment advice. In other words, these other types of investment “salesmen” are not required to put the financial interest of their clients before their own financial interest.

More often than not, these investment “salesmen” push clients into financial products that contain high fees (such as front-end sales loads, back-end sales loads and 12b-1 fees) when in actuality, these types of fees can either be limited or eliminated as there are literally thousands of financial products out there (such as exchange-traded funds or no-load mutual funds) that do not charge such fees.

However under the new financial reform Act, the SEC has the authority to impose new rules that would require all registered investment advisors to follow even more strict disclosure and accountability rules.

What Does the Financial Reform Act Mean for Expatriates?

If you are an expatriate living abroad who uses an investment advisor who is also based abroad, you must be aware that financial advisors who are registered and licensed by the SEC will need to follow any proposed stricter rule. Those who are not registered will not be bound by any proposed changes. Hence, unregulated investment advisors or “salesmen” will still be able to cold-call potential investors and sell them financial products that may or may not be suited to their investment needs and they will still be able to collect commissions (with or without full disclosure to their clients) from financial services firms whose financial products they are marketing. Moreover, they will not be obligated to fully disclose all fees to investors.

Conclusion

In conclusion, when considering an investment advisor or an investment product that is being recommended by one, it is imperative that you first understand what principles or professional codes of conduct your investment advisor is required to operate under. You must also ensure that you fully understand the investments that you own or are being marketed as well as the fees associated with them. If you do not understand or if you have doubts, ask for more disclosure in writing. Moreover, be sure to understand how your advisor is being paid and whether or not he or she is receiving commissions for marketing particular investment products. Finally and especially if you are living abroad, be sure to fully understand how the new financial reform Act impacts you and specifically how possible upcoming changes may impact your financial advisor and the advice he or she gives you.

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