

Business Standard

The overlooked part of estate planning: Choosing your spouse's adviser

Leaving assets and investment records is not enough; investors should identify trusted Sebi-registered advisers in advance so their spouse is not pushed towards unsuitable products after their death

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Representative image for investment adviser

“If I die, then immediately and formally engage with Sebi registered investment adviser (RIA) XX. If that is impossible, then RIA YY” – This is one of the most important instructions that most of us should leave for our spouse. Let’s understand why this is so critical and how to make sure that it happens. Even if you yourself engage with an ethical RIA, after your death, your spouse is unlikely to formally engage with your RIA. Your spouse is more likely to engage with your bank relationship manager (RM). One of the reasons is because the bank RM, like all effective salesmen, knows how to appear friendly and pitch high-fee products in the most appealing way. Bank RMs are effectively Ulip distributors and to a lesser extent, mutual fund distributors. But even that is better than your

spouse engaging with your stock-broker's RM who will recommend even worse products such as margin trading on stocks i.e., buying stocks by using a high-interest loan. Engaging with either of these RMs is guaranteed to harm your spouse.

Before trying to fix this life-or-death problem, let's first look at the top three reasons why your spouse is unlikely to formally engage with your RIA.

First, in a majority of cases, only one person in the couple is actively interested in the topic of financial planning and investing. Let's call this person in the couple the treasurer. And the other person in the couple is only partially involved with investing. Let's call this person in the couple the poet. This is quite normal and it is often not possible to change this arrangement.

Second, ethical RIAs teach clients how to correctly execute mutual fund transactions. So, the client does not need to engage with the RIA on an ongoing basis. Hence, a majority of clients contact the RIA when things change significantly once in two to four years, and only a minority of clients renew the engagement with the RIA every year.

Third, the primary driver of the match between a client and an RIA is the level of knowledge of investing of the two parties. Naturally, the RIA should know at least slightly more about investing than the client does. The treasurer would have selected an RIA that is suitable for the treasurer's level of knowledge. The poet would have a lower level of knowledge of investing. Hence it is very difficult, but not completely impossible, for the RIA to fully engage with the treasurer and the poet during the discussions. The poet often gets bored in the discussion about the nuances of very technical topics. So, often, the poet would not like to be a silent spectator in the discussion and would prefer not to interact with the RIA at all.

In case of the death of the treasurer, these three issues combine to create a perfect storm. The poet has to remember that the treasurer used to interact with an RIA; locate that RIA; decide whether to contact the RIA now or later after getting access to all the money; email / message the RIA to fix a free introductory call; understand even the simplest jargon that the RIA is using; decide whether they want to engage with that RIA; read and understand the eleven-page agreement that SEBI requires before the engagement starts; and pay one-year of fees in advance. It is not surprising that the poet usually gives up and instead engages with the seemingly friendly bank RM. In short, this is a disaster waiting to happen.

The solution below assumes that you (the treasurer) know how to select an RIA. And I have written about that extensively including in this newspaper. Further, for

the sake of brevity, the solution below assumes that you are already engaging with an RIA; that the treasurer alone interacts with the RIA and that the poet's knowledge of investing is significantly lower than the treasurer's.

These are ten steps to mitigate this likely impending disaster.

First, recognise that it is the treasurer's responsibility to make sure that in case of the death of the treasurer, the poet will definitely engage with the RIA. Regularly remind the poet about the Google Drive spreadsheet about your investments that is 'starred' in the poet's Google Drive account to make it easy to locate. And one of the very first pieces of information in that spreadsheet should be clear instructions to engage with a specific RIA. Not to evaluate that RIA, but to blindly, immediately, and formally, engage with that RIA. Naturally this puts the burden on the treasurer to locate such a reliable RIA who will not take unfair advantage of the poet's lesser knowledge.

Second, RIAs that focus on knowledgeable clients may not have the patience to explain very simple concepts and to keep on explaining it till the poet understands it. That will make it difficult for your spouse to fully understand the rationale behind the RIA's recommendations. But recommending an RIA that you have less confidence in just because they are better at explaining very simple concepts, is also not an ideal option. So, there is no perfect solution here. My preference is to recommend an RIA where you have complete confidence in the RIA's competence and requesting your spouse to trust that RIA, even if your spouse does not completely understand the RIA's rationale for the recommendation. Naturally your spouse should feel free to bluntly communicate any concerns that they have for the RIA to be able to make sensible recommendations. For example, your spouse should feel comfortable to bluntly tell the RIA that the poet would like to have a significant amount of money in fixed deposits that are very easy for the poet to operate. Or your spouse should bluntly tell the RIA that the poet currently does not know how to execute mutual fund transactions.

Third, in this article, let's focus on RIAs who strictly operate only under the Securities and Exchange Board of India (Sebi)'s Fixed-Fee structure. In this article, we are ignoring RIAs who charge a fee which is 1 per cent per annum of the client's assets under management or any other such percentage. A typical fixed-fee RIA engagement is designed for normal situations with a very limited amount of work by the RIA. It is designed this way to keep the fee low so that clients do not hesitate to engage with an RIA. Death of the treasurer is an abnormal situation which requires a massive amount of work by the RIA. The amount of work that the RIA

puts into a typical engagement would get used up well before all the funds get transferred to the poet's name. So, instruct your spouse to request the RIA to find a way to mitigate the problem in the first year of the engagement. The normal way to mitigate this problem is to do a premature renewal of the engagement. Renewals are usually at the end of a year. But in this case, it is highly likely to be necessary to renew the engagement well before that. Also request your spouse to renew the engagement with the RIA from the second year onwards. This is not essential where the client is a treasurer, but it is critical where the client is a poet.

Fourth, it does not make sense for the RIA to put in a massive amount of work and not get paid for that amount of work. I do not know of even one single ethical RIA who would agree to do this, and I have studied the operation of at least a hundred RIAs in India. So, your spouse should not mistakenly hope that sympathy from the RIA will lead to a low fee. In a normal engagement, clients will perceive the fees of an ethical RIA as being expensive. In such an abnormal engagement in the first year after the death of a treasurer, your spouse is likely to perceive the RIA's fee as being obscenely expensive. You might understand the reason for it which includes the RIA having to spend time and money complying with 200+ pages of impossibly difficult SEBI regulations. Your spouse is highly unlikely to understand the RIA's problem.

Fifth, if the couple has a net worth of more than Rs 20 crore, then Sebi regulations cause an unintended problem. Clients with such a net worth often select RIAs who have more experience and/or educational qualifications. Such RIAs also have a higher fee. SEBI regulations currently limit the fees under the fixed fee structure to Rs 1.51 lakh in a year. So even if the RIA and the poet would like to prematurely renew the engagement only during the first year of the engagement, Sebi regulations make it impossible to do so. There is no easy solution to this problem. So, let's park this problem.

Sixth, explain to your spouse that the RIA may recommend one or more service providers that your spouse can use for some of the running around that is required to transfer ownership of assets from yourself to your spouse. The RIA may recommend such service providers because the RIA does not themselves get involved with such work and also because it partially mitigates the problems that were described in the third, fourth and fifth points.

Seventh, suggest a second and if possible third RIA as a backup but make it very clear that they are only a backup. This is just in case the first RIA has retired or is tied up with some personal emergency of their own for several months.

Eighth, explain to your spouse that they will have to accept the quirks of that RIA. For example, some RIAs are very blunt and do not sugar-coat their advice. RIAs that use SEBI's fixed-fee structure usually do not meet their clients face to face. This is also because such RIAs have clients who are spread across India and the world. Further, some RIAs do not do video calls and only do audio calls. It is possible that you completely understand that, but your spouse could perceive it as rude and hence a dealbreaker.

Ninth, request your spouse to be transparent with your RIA about all financial aspects. It is ok if your spouse would like to take their time with being transparent about other aspects such as major health issues.

Tenth, keep updating your list of two or three RIAs. Optionally, you could connect your spouse to the RIA via an introductory email. If you later change your mind about the choice of RIA, then send a new introductory email connecting your spouse to that new RIA.

Instead of wasting your time on illogical things like the bucket strategy for your retirement portfolio, use your time on making 100 per cent sure that your poet will definitely engage with your RIA and will not be tricked by your bank RM.

(The writer is an hourly-fee financial planner and a Sebi RIA at Fiduciaries.in. He was a private-equity investor for 12 years.)

If you die, your spouse is very likely to be conned by your bank relationship manager. You have to ensure that your spouse will instead engage with the RIA that you have selected.

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