

Are Robo-Advisor Programmers Fiduciaries?

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With robo-advisors gaining steam, should the computer programming wizards behind them be held to a fiduciary standard?

Talk to experts and you get a firm, “sometimes.”

One professional in the “yes” camp is Andrew Stoltmann, a Chicago-based securities and investment fraud attorney who sits on the board of the Public Investors Arbitration Bar Association.

“If a firm outsources recommendations to a robot, it better make certain that robot is properly programmed to exclusively recommend a diversified asset allocated portfolio,” said Stoltmann.

He said—half in jest—that an army of well-trained, ethical robots could put him out of business because most of the cases he brings against advisors charge they have instituted non-diversified, non-asset-allocated buckets of investments for their clients.

Another Windy City securities law attorney, James Eccleston, who represents both investors and advisors, said if a roboadvisor is giving recommendations, a computer programmer should be held to same the standard as a broker if the techie is acting in concert with compliance and legal personnel.

“Ordinarily, a programmer is one small cog in wheel,” he said.

But that caveat goes away for Eccleston if the programmer is literally a one-person robo operation.

Financial planning blogger and Western Kentucky University finance professor Ron Rhodes noted programmers don’t have the relationship of trust and confidence that flesh-and-blood advisors do, yet they have been sued for aiding and abetting fraud.

Michael Chadwick, an advisor in Hartford, Conn., argued robo-advisors shouldn’t escape the ethical obligations he works under.

“I worry about this stuff. If they are producing a product that the public is going to try to use to improve their financial outcomes, they should be held to the same standards we are,” said Chadwick.

Andy Cullison, director of the Prindle Institute for Ethics at DePauw University in Greenscastle, Ind., said he is seeing the debate over ethical standards for programmers all across the technology industry where computer programs are taking on decision-making roles.

“It’s not unique to the finance industry,” Cullison said.