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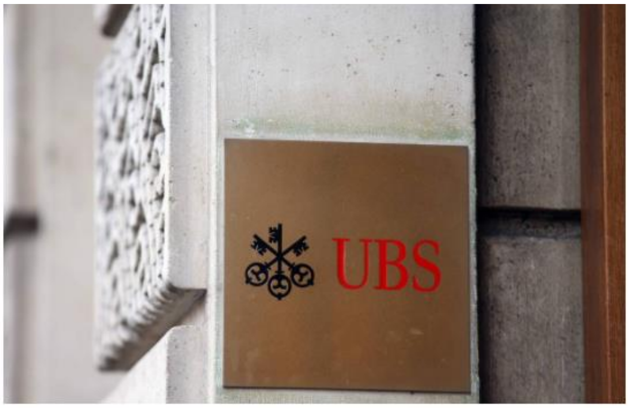
Wall Street Fights to Keep Brokers

UBS to pull out of pact on broker recruiting, following Morgan Stanley exit last month



Swiss banking group UBS is withdrawing from the Protocol for Broker Recruiting, a set of rules that has made it easier for advisers to change firms. **PHOTO:** AGENCE FRANCE-PRESSE/GETTY IMAGES

By Lisa Beilfuss

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Two of Wall Street's biggest firms have a message for their brokers: Leave at your own risk.

Morgan Stanley and the U.S. wealth-management arm of Swiss bank UBS Group AG have abandoned a pact with more than 1,600 signatories that limits litigation related to broker poaching and makes it easier for financial advisers to jump to rivals and bring clients' assets with them.

The moves highlight the mounting pressure Wall Street brokerages face from independent competitors known as registered investment advisers, which offer brokers more autonomy and higher pay.

The money at stake is considerable: According to research firm Cerulli Associates, there is about $4 trillion in the RIA industry and about $6.5 trillion still within the traditional brokerage, or wirehouse, model.

By exiting from the recruiting pact, UBS and Morgan Stanley will now be able to make it tougher for departing brokers to bring their clients with them. Advisers may face temporary restraining orders upon leaving, observers say, delaying the point at which the adviser can begin servicing clients who follow to the new firm. The threat of litigation is also meant to give pause to the firms that have been recruiting from traditional brokerages.

"This is [Wall Street] waving the white flag," said Brent Burns, a New Jersey-based attorney who represents financial advisers. The biggest brokerages "are trying to stem their losses by putting up a fence."

Under the 2004 recruiting pact, departing brokers are limited to taking names, addresses, phone numbers and email addresses of "clients that they serviced while at the firm." Brokers are also restricted from telling clients about plans to move.

UBS told its roughly 7,000 financial advisers Monday that it would abandon the pact this Friday. The firm said it gave notice to the law firm that administers the pact—known as the Protocol for Broker Recruiting—on Nov. 20. Parties to the accord are supposed to give 10 days' notice of a withdrawal from it.

Morgan Stanley made its move late last month.

Executives at both firms said they intend to focus more on retaining existing advisers than on recruiting from competitors.

For UBS, Monday's decision to leave the accord comes about a year and a half after it pulled back on recruiting to focus on retaining current advisers. The firm's U.S. wealth-management arm said last year that it would reduce by 40% the number of brokers it recruited annually as part of a broader move to improve profitability. Subsequently, competitors Morgan Stanley and Merrill Lynch also pulled back on recruitment.

UBS "didn't [exit from the protocol] to stop attrition," a person familiar with the matter said, adding that the firm isn't focused on the size of its adviser force but rather its quality.

"People who want to leave are going to leave" and UBS will recruit as opportunities arise, the person said.

Some observers say the protocol is losing its relevance as firms pull back from an expensive recruiting practice known as "prisoner exchange" that involves offering brokers big upfront bonuses in the form of forgivable loans. The loans are typically structured to keep an adviser from leaving for at least seven years.

A dissolution of the protocol may help Wall Street maintain its adviser force, at least in the short term. Observers say that without it, moving between firms will be harder. But in the longer term, observers say, it may not matter much.

Firms have been “hemorrhaging talent and assets” in recent years, said James Heavey, a partner at Barton LLP who represents both brokerages and RIAs, as brokers opt to go to an independent firm and keep as much as 85% of the revenue they generate. At the biggest firms, most brokers typically keep less than half of what they generate.

Meanwhile, firms including Raymond James Financial Inc. and Dynasty Financial Partners, which offer breakaway brokers a place to run their own advisory business without having to deal with matters such as payroll and compliance, are “killing it right now,” said Mindy Diamond, an industry recruiter based in New Jersey.

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