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# Independence equals profits for 401(k) consultant

## Francis left Smith Barney after 'conflict' concerns

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A U.S. Securities & Exchange Commission investigation provided the impetus for Michael Francis to start his own company.

Francis, 42, in April launched Francis Investment Counsel L.L.C., an independent 401(k) and pension fund consulting firm, largely in response to conflicts-of-interest concerns expressed by clients of Francis' former employer, Smith Barney.

Francis' Hartland firm provides fee-based 401(k) plan and pension fund consulting. Its calling card is independence from the brokerage house milieu that Francis believes will prove critical as financial firms face increased regulatory scrutiny.

Thus far, Francis has enjoyed a positive response from his former Smith Barney clients. Francis Investment Counsel has reached a break-even level after its first eight weeks and is running seven months ahead of its financial projections, Francis said.

The firm provides pension consulting services for 26 institutional clients, including Brady Corp., Reinhart Boerner Van Deuren S.C. and Wisconsin Steel & Tube Corp., all in Milwaukee.

The firm's clients account for nearly \$1.2

billion in pension funds, Francis said. At Smith Barney, Francis was a senior vice president and managed more than 30 institutional client relationships representing funds approaching \$2 billion, he said.

"The Smith Barney name in some cases hurt us among institutional clients who didn't want their pension funds managed by a brokerage firm," said Francis.

The SEC on Dec. 12 announced it was investigating potential conflicts of interest in mutual fund manager compensation and disclosure practices. The investigation includes pension fund consulting practices like the one Francis managed from Smith Barney's Pewaukee office. As part of Citigroup, New York, Smith Barney provides a wide variety of financial services, including brokerage services.

### BUILDING HIS TEAM

Although neither Francis nor Smith Barney was implicated in the SEC's investigation, client concerns over potential conflicts led Francis to leave the firm he joined in 1984. He resigned on March 26 and took all five of his staff members with him.

The SEC's investigation focused on "pay to play" arrangements in which fund managers compensated brokers for recommending their funds to investors. Even though Francis never invested pension money in Smith Barney funds, institutional clients raised the questions about undisclosed revenue sources, illegal under rules of the Em-



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writing. Due to Smith Barney's size and complexity, the firm declined to provide written guarantees. Francis decided to resign.

Mark Bisbach, manager of Smith Barney's Pewaukee branch and Francis's former supervisor, referred reporter inquiries to the firm's New York office, which declined to comment.

Francis, who had no non-compete clause with his former employer, became president of his own firm that he financed with his own funds.

Kelli Send, who worked with Francis at Smith Barney, is senior vice president and a minority owner in the firm. Francis Investment Counsel operates from a home Francis owns near Beaver Lake that was converted to office space.

The Francis firm's independence appealed to Joe Zvesper, executive vice president and chief financial officer for American Appraisal Associates, Milwaukee.

"It took our committee zero seconds to decide to follow Mike to his new firm," said Zvesper, who'd worked with Francis at Smith Barney since 1997.

Maintaining independence is critical for 401(k) consulting groups that support corporate staffs with responsibility for company retirement funds, said Francis.

"It's your fiduciary responsibility to ask your adviser the right questions," said Francis. "If they won't give you guarantees in writing, chances are there's a conflict of interest."

Clients asked Francis for assurances in