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Financial advisory firms sign pact to ease poaching

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By Bob Margolis

NEW YORK, Dec 2 (Reuters) - It's getting easier for restless financial advisers to jump ship.

Independent advisory firms are rushing to sign an agreement that bars lawsuits between signatories that hire away each other's brokers.

Almost half of the 96 signatories to the pact -- started in 2004 by Citigroup Inc (C.N: Quote, Profile, Research, Stock Buzz), Merrill Lynch & Co Inc (MER.N: Quote, Profile, Research, Stock Buzz) and UBS Financial Services Inc (UBSN.VX: Quote, Profile, Research, Stock Buzz) -- have joined since August.

The growing popularity of the agreement, called the "broker recruitment protocol," could accelerate the recent trend of financial advisers fleeing the once safe confines of the top banks to join smaller independent firms or set up shop on their own.

Initially, the agreement was meant to reduce litigation among the three wealth management giants when advisers left one firm to join another.

It also trumps the "non solicit" contracts that long made it tough for advisers, when they left one firm and went to another, to take with them clients and their assets.

"Registered investment adviser firms can now recruit with less fear of litigation from a major house with deep pockets," said Tom Lewis, an attorney at Stark and Stark, a New Jersey-based law firm.

Wachovia Securities LLC (WB.N: Quote, Profile, Research, Stock Buzz) and Morgan Stanley (MS.N: Quote, Profile, Research, Stock Buzz) signed the protocol in 2006. Bank of America Corp (BAC.N: Quote, Profile, Research, Stock Buzz), which is acquiring Merrill Lynch, followed suit last month in a move viewed as aiming to allay Merrill brokers' concerns.

Independent firms have signed on with increasing frequency "because it's easier for them to hire if they're part of the protocol, and recruiting ex-wirehouse brokers is more and more likely to happen," Lewis said.

Large brokerage companies are sometimes referred to as "wirehouses" since, years ago, they were the only ones with the ability to execute trades via high-speed communications, or the "wire."

EASING TRANSITION

"We signed the protocol recently since it eases the transition for an existing wirehouse broker to come over," said Brian Roberts, a partner at Nelson Roberts Investment Advisors LLC in East Palo Alto, California.

More top-producing advisers are now setting up their own firms and taking advantage of the protocol.

"It started with smaller advisers; now there are some with billions of dollars under management," said Lewis.

So far, observers say they have seen no pushback from the major firms over advisers who have left and taken advantage of the protocol.

In 2004, "the wirehouses were consistently recruiting advisers from each other and taking each other to court -- to the point of absurdity," said

Robert Ross, an attorney at the New Jersey-based Hamburger law firm, which represents both wirehouses and registered investment advisers.

"Despite seeing a few defections to the registered independent world, the big firms today still view the protocol as a net positive," he said. "They can still recruit from each other at will."

Molly Tatman, an attorney from UBS, agreed. "The protocol will soon become industry standard, but until then we still see it as allowing us to recruit aggressively without having our hands tied," she said.

Merrill Lynch and Citigroup declined to comment.

The agreement is not limited to just financial advisory firms; big insurance carriers and banks can join as well.

"The protocol does not make clear that it was written specifically for a particular type of firm," Lewis said. (Editing by John Wallace)