

FIDUCIARY RULE REVISITED

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Fiduciary Rule

- Fiduciary—person, company or association holding assets in trust for a beneficiary.
- The fiduciary is charged with the responsibility of handling money or property wisely for beneficiary's benefit.

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Fiduciary Duty

What it was before April 2017:

- Must be "suitable" for the client

What it would be after April 2017:

Must manage accounts for the benefit of the beneficiary

Applies:

In the U.S.,
To retirement investment accounts,
To brokers/agents/managers of IRAs, 401Ks,

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Fiduciary Duty

- Timeline:
 - Fiduciary Rule change due April 2017
 - Jan. 20, 2017—New administration
 - March 2017—New Administration—Delayed effective date to June 9, 2017
 - Some parts until July 2019
 - June 9, 2017 Went into effect, except some provisions
 - --Best interest contract
 - --Certain client disclosures
 - RESULT: Unenforceable

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Fiduciary Rule 2/1/18

- BUT: Companies actions in preparation:
- Merrill Lynch—embraced with ad campaign
- Morgan Stanley—brokers keep getting commissions but company lowered costs to meet “reasonable compensation” standard
- Other firms: introduced “robo” advisory tools
- Fidelity Investments: thinks present rules protect clients, focus on disclosures
- Brokers leave for indie shops

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Fiduciary Rule

- States Actions in response:
- Some making own rules to expand and amplify
- 13 State Treasurers ask new DOL Secretary to preserve the “common sense measure”
- Nevada test case to expand to all investment accounts

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Fiduciary Rule

- AND:
- SEC actions: accelerating work on its own version—for all brokerage accounts
- Consumer groups: worried about softer version and conflicts of interest
- Investment adviser trade group: wants brokers to have to be fiduciaries like they are

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Fiduciary Rule

- March 15, 2018—Fifth U.S. Circuit Court ruling: DOL overreached
- Other circuit courts disagree
- Result>>>Supreme Court probably
 - >>>more focus on SEC ruling
 - >>>more states acting

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Fiduciary Rule

- Clients: Asking questions
- Brokers/agents/managers: Have to answer—sign a contract
- Firms: “It’s not easy to turn on a dime. . .
“Most are on the path towards a fiduciary standard and are not going back. That’s too shortsighted.” Charles Goldman, head of AssetMark

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Thank You

Questions?

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