

THE ETHICAL TREATMENT OF SOMEBODY ELSE'S MONEY: THE NEW FIDUCIARY SALE

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INTRODUCTION

The most overused word in the financial industry is “fiduciary” Skip the technical jargon. In the area of investing it means “The ethical Treatment of Somebody Else’s Money.” That said, what is all the noise about the DOL’s “New Fiduciary Rule”? It’s just that: noise. Noise is news today. What really changes for Retirement Plans and investors? Not much actually. For instance:

The Financial Industry: You will read a lot of chest-pumping hyperbole about how the rule “levels the playing field”, is a “game changer” and so on. Firms will have to change their business models and annuities are dying. Nope. The one thing the Financial Industry does best is to adapt quickly to new opportunities and landscapes by creating new products and distributing them profusely. Maybe we can help. Look for it.

Plans and Plan Sponsors: Not much here either. Laws established in 1974 require that an investment person must be a Fiduciary to advise to an employee benefit plan. There will be some more disclosures to read about compensation to the provider and fees and such. And, there will be a renewed emphasis on providing investment education to participants, which is good. You might have a slightly more clear factual way to evaluate service providers. Otherwise, business as usual.

Plan participants and IRA investors: The fees you pay might go down, which is good. You should have an opportunity for actual investment education rather than just tear sheets on mutual funds, and, that, too, is good. Basically the same investment lineup and options you had before will still be generally available. Maybe they have a slightly different wrapper, but still....

So, when the noise dies down the investment world goes on to other things and the lawyers find greener pastures, our world will still go on, pretty much as usual. If you want to read some of the government and industry pundits’ comments on the Rule, you can browse it on our site. If you actually want to read the 1100 or so pages of the law, I think you better already be retired and have a really strong pair of reading glasses.

So, what if now you may be a Fiduciary. How does this DOL Rule change your business?

If you’re a fee-based fiduciary advisor already, not much. Watch out for the market impact on fees as annuity fees and maybe commissions drop.

If you’re a broker, you can still sell commissioned products to Plans and participants. Sure, you might have to have a few more disclosures and maybe, just maybe, you have to disclose your fees. If you don’t want to disclose your fees, maybe you should consider a sales job at Shoes R Us in Paintball, Arkansas.



If you're an insurance agent can you still sell an annuity to a 401k or IRA Participant? Sure—justify that it's in the best interest of the client. What about having the client sign off that he/she believes it's in their best interest?

Can you sell non-traded REITS or Hedge Funds to Retirement accounts. Sure, virtually any product is fair game, but remember to be prudent (whatever that means).

What's that? Can you rollover a 401k account to an IRA because you will make more fees on the IRA? Seriously? I'd like black Converse All Star High Tops, 9 1/2 W, please.

Does that mean the rollover business is dead? Not a chance. Our friends at Cerulli Associates remain optimistic that rollovers may offer more distribution flexibility.

Cerulli opined (as we did) that the next period will see a profound period of product and platform innovation at financial firms and providers.

“And the caissons keep rolling along....”

What about the SEC statement that they will be out with their own Fiduciary Rule in April, 2017. First off, don't hold your breath.

What about the SEC saying that their Rule will cover all accounts, including retail. See “First off” above. Besides, if you're a client with money entrusted to someone else, don't you expect that their recommendations are in your best interests? If you're a Financial Advisor, aren't your recommendations expected to be in the client's best interest? Most of you anyway?

Look, “Fiduciary” is a label. Regulators like labels. The test is where the rubber meets the road, when the pedal is to the metal, when the race is on... Wait, the Indy 500 is over. Enough auto analogies.

What we call standards of Prudence or a fiduciary standard is decided in the courts. Clients have expectations; Advisors have responsibilities, let's line them up hit the starter and go (Sorry, no more auto. Promise.)

For Plan Sponsors, let's get your documents in order, your service providers lined up (not in an auto race form), make sure we all know what you and we have to do. Then we do it. Simple? No, I didn't say that, but it's critical. We need to do our part to solve for the retirement crisis in the country (yes, there is too one!). We have a legal, no, a moral obligation to help our employees make the most informed investment choices from the most suitable, cost effective risk adjusted return fund vehicle line up we can. And then, we run it by the book in the cleanest conflict environment possible. Maybe we can help there too.

For Financial Advisors, eliminate even the perception of conflict, educate Sponsors and Participants and take more time to do it right. Give your Plan clients, their participants and beneficiaries the “Value of Your Advice. I know we can help there, too— by detailing for you the premises of THE FIDUCIARY SALE.

Regulators make money from fines and levies for not following their unclassified rules. Together, let's put them out of that business.

For Participants, the employee benefit plan is supposed to be administered solely in the best interests of not the Plan, but its Participants and Beneficiaries. And that's what we want to

make you: the beneficiaries of this modest movement to get everyone considering “The Ethical Treatment of Somebody Else’s Money.

FIDUCIARY SALE PRIMER

The Fiduciary Sale can be a Financial Advisor’s best friend. A lot of people in the Plan business including Sponsors and Trustees have responsibility for their Participants’ money, and they may or may not know it. The job of the Financial Advisor is to help the fiduciary understand their responsibilities, and to pro-actively assist them in fulfilling these responsibilities.

Discussion of fiduciary responsibility begs the question, “who is a fiduciary?” Someone has ethical treatment (Read “Fiduciary, though overused) responsibility when they are charged with managing, administering, advising to, or consulting to, a pool of assets, which is owned by someone else. Fiduciaries generally include trustees, investment advisors, CPAs, administrators, and Financial Advisors.

The regulatory laws and agencies, which relate to fiduciary responsibility, include:

- DOL

The Department of Labor regulates employee benefits plan through statute, regulation, audit and enforcement.

- ERISA

The Employee Retirement Income Security Act of 1974 is a Federal Statute, which applies to retirement and welfare benefit plans. It has specific provisions on Fiduciary Responsibility, standards of conduct of a Fiduciary and specific rules regarding the prudent investing of other people’s money. ERISA laws are enforced by the Employee Benefits Securities Association (EBAS)

- State Regulators and Statutes

Almost every state (Thank You, Wyoming) has adopted provisions, which control investment activities in that state. They are enforced by various departments—Banking, Commerce, Securities, etc. All investment advisors not eligible to register under the Federal Statute are required to register with State regulators. In addition, Federally registered advisors and their sales agents often have to file a "notice" filing as an Investment Advisor Representative (IAR) in at least their home State. They are generally understaffed and under educated about the business nuances of the investment world and an enterprise.

The Securities and Exchange Commission

The SEC regulates and enforces the sale of securities (all right, I simplified it some). They make examinations every 8 years or so and take whistleblower complaints from investors, many of which are complaining about losing money. They missed Madoff 5 times, but are attempting to clean up fraud small firm by small firm. Not enough examiners (although many are CPS, CFA educated). I don't think any one has a CFP and the best go into industry to make more money

The Financial Industry Regulatory Authority

FINRA regulates Broker dealers, mainly. They have rules and regulations, examiners and enforcement. Actually, operationally, they are the best of the bunch. FINRA is usually quick to respond to new trends that may disadvantage investors. While one may say their standard of care may be lower than the OL and SEC, at least they have the ability to enforce it...usually. Interestingly enough it is a private corporation which is supported by its member financial firms (anyone who wants to do business as a broker). It is the Broker SRO—Self Regulating Organization.

- UPIA, UMIFA, UTA
- UPIA, UMIFA, UTA, UPMIFA

Most states have for decades adopted the Uniform Prudent Investor Act , the Uniform Trust Act, the Uniform Management of Institutional Funds Act. and/or the Uniform Prudent Management of Institutional Funds Act, all of which have established a fiduciary standard generally mirroring ERISA, but some have somewhat modified standards.

So, you see, Fiduciary is all over the place> Read the Doomsday book of 1066. If you want or even aspire to do what's right for your clients, what's in the best interests of your clients. If you believe that if you do the right think, your rightful payday will come along, then here is a right way and a wrong way. This book will demonstrate the right way.

We're going to ficus on the right way

Start with this basic premise:

That investing today is so complex, the clients cannot do it themselves

--and--

That the clients need the help of a qualified ethical Advisor

Presently there are far too many Financial advisors out there intent only on capturing assets for their own financial purposes. There are more than **600,000** FINRA/SEC/insurance licensed financial advisors in this country, many of whom do not fully understand their duties with respect to assets entrusted to them. Despite what some think, the goal of getting investment clients is NOT to make as much money as you can off them. Success in the fiduciary marketplace will belong to those Advisors who properly address the needs of the client, Plan Sponsor, Participants or IRA holder.

In this collection, you will learn things like the facts that plan objectives must be in writing, investments must be made with the diligence of a prudent expert, managers and investments should be prudently selected, plan assets must be diversified, and investment activities need to be monitored and evaluated.

But, this is, above all, a marketing piece—a training manual taken from articles, lectures and training sessions delivered to Investment Management Professionals all over the country over the past thirty five years. It's based on the practicalities of real life. It is not a legal treatise full of mumbo jumbo. Sure, we support opinions with court cases; we love war stories. The first premise of law is that black letter law means nothing until a trier of fact interprets it.

The Regulations on the shelf will not offer much help in consulting to Retirement Assets, whether you're a Plan Sponsor, Trustee, Advisor or a Service vendor. It's Somebody Else's Money You're dealing with. Treat it in the most ethical manner possible

We start with that part of the process without which, nothing happens—THE SALE. IF THERE ARE NO SALES, THERE ARE NO CLIENTS. If you use an ethical sales practice which we detail, and deliver what you promise, you have nothing to worry about.

The Fiduciary Sale can be the financial advisor's, Plan Sponsor's and Participant's best friend. Use it wisely.

There are 3 main sections of the Complete Guide:

1. The sale from the Advisor perspective: how to make the presentation.

What it means to the Plan Sponsor

What it means to the participant.

2. The deliverables: Advisors; How to deliver what you sell.

What's the impact on the Plan Sponsor—what's important to her?

How do you get the Participants on your side?

3. How can you use cases and regulatory opinions to make your point? How do they make your sale? Make the Regulations part of your value added. Be an expert.

Closing the Plan Sponsor

Educating the Participant.

Advisors will employ this process by selling professional integrity using The Fiduciary sale as a tool instead of a hindrance.

They will win support of Plan Sponsors or Committees (even the accountant)

They will contribute to making a better educated retirement Participant..

Assets will grow.

We are going to present our Guides in both PDF and ebook format by subscription.

We will invite known professionals to test with on our Blog Talk Radio, YouTube
Twitter account and the traditional Facebook and LinkedIn venues.

We will encourage and promote those Advisors, Plans and Trustees we believe
“got it right”

If you like to read about this, you'll have plenty of opportunity.

If you want to engage and join this movement, we all benefit.

Kind Regards,

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The New Fiduciary Sale: The Ethical Treatment of Somebody Else's Money
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