

# The Ethical Treatment of **\$**omebody Else's Money

## Straight From The Horses' Mouth

May 12, 2017



### FIDUCIARY: JUNE 9 - WHAT RULE?

The only way we can help you, Advisors AND Investors, make any sense of how to evaluate whether you are giving or getting the Ethical Treatment of Somebody Else's Money (yours or your client's) is to point out the obvious ways ethics works and fails. So, let's start with the dumb DOL Fiduciary Rule circus. Then, my Anti-Fiduciary.

**The DOL Fiduciary Rule is here to stay. Or, Maybe not .**

#### **[NOTE EMPHASIS IN RED HEREIN IS MINE]**

We were all surprised when DOL Secretary, Alexander Acosta, announced this week that there would be no further delay in the implementation of the Rule. The financial industry, the administration, Congress, lawyers, conservatives, liberals, everybody was surprised. (I was surprised. I hate to be wrong). Anyway, it's on for June 9. Acosta said he "found no principled legal basis to change the June 9 date while we seek public input" and that "respect for the rule of law leads us to the conclusion that this date cannot be postponed."

SO, that's finally it, Right? Well, not exactly.

Acosta also said that while it was to be implemented on June 9, there would be a concurrent "thorough public review" of the Rule by the Agency.

Remember that the full implementation of the Rule, including the BIC Exemption (BICE), does not take effect until January 1, 2018. That gives lobbyists, industry, the administration, the DOL and Congress plenty of time to take apart the Rule piece by piece and leave us with a version that is so watered down that it dwarfs The Great Flood. Only this time Noah isn't around to save us 'animals'. (cont. on page 2)

## In This Issue

**Fiduciary: June 9  
What Rule?**

**Speaking of Fiduciary  
Sale : How do  
you think this  
sounds?**

**Helping You Stay  
Away From the  
Crooks**

## Coming Attractions

**YOUR IDEAS ABOUT  
RETIREMENT HAVE TO  
CHANGE NOW  
BECAUSE OF THE 100  
YEAR LIFE**

**DANTE'S CORNER  
4: THE 2017 FRAUDS**

**THE "GOOD BAD AND  
THE UGLY"**

**MORE ABOUT OUR  
COMPLIANCE  
SOLUTION**

## FIDUCIARY: JUNE 9 - WHAT RULE? (continued...)

In an editorial, the Wall Street Journal called this “legally unwinding it.”

Literally minutes after Acosta’s announcement, the DOL issued a “relief” Field Assistance Bulletin that said it will **not actually enforce** the fiduciary rule until January 1, 2018, as long as fiduciaries “are acting in good faith.” This ‘grace’ period will allow for additional comments and for firms to continue to adjust. In their words, “...during the phased implementation period ending on January 1, 2018, the Department will not pursue claims against fiduciaries who are working diligently and in good faith to comply with the fiduciary duty rule and exemptions, or treat those fiduciaries as being in violation of the fiduciary duty rule and exemptions.”

So WHAT is the point of a toothless implementation date of July 9, and more importantly WHAT was the point of Acosta’s statement? More obfuscation and deflection? The Rule has had plenty of that. Who is driving the now so-called Rule?

The Investment Company Institute (ICI) which represents mutual funds is solidly behind the push to have the Securities and Exchange Commission take control of any fiduciary rule and dictate its content.

In Congress is the Financial CHOICE Act, a congressman’s (Jeb Hensarling, R-Texas) proposal to functionally repeal the Dodd-Frank Act. It is said to reduce the deficit by around \$24 billion over 10 years and benefit small banks. Having never read it I have no idea but some people who have actually read it say the it contains language to basically strip the Fiduciary Rule away. It will put the new rulemaking in the SEC’s hands with the proviso that it must be shown that the rule will not monetarily damage the Financial industry (fat chance of that). Then, and only then, according to the Bill, can the DOL enact a clone of that Rule. What do you think that rule would look like?

Still you say, it’s only a proposed bill. Would Congress pass something like that? Well, who do you think is the biggest benefactor of your congressperson? Think “Big Financial”. After it gets through with the usual congressional hacking how likely do you think the bill (if it comes to pass) would actually reduce the deficit while benefiting small banks? Me neither.

The Securities Industry and Financial Markets Associations (SIFMA) CEO, Kenneth Bentsen, Jr., wethered that bell with, SIFMA “has long supported the creation of a best interest standard for brokers who provide personalized investment advice, and we continue to **believe that the SEC is the appropriate regulator to do so** ... While we are disappointed that the Department of Labor has chosen not to further delay the rule until the Department has completed a review of the entire rule’s impact on investors, we appreciate Secretary Acosta’s recognition of the rule’s negative impact and his desire to seek public input”. SIFMA concluded with, “**We hope that upon the Department’s completion of its wholesale rule review, they will conclude, as we believe the evidence clearly shows, that dramatic and fundamental changes are appropriate and necessary.**”

The Insured Retirement Institute (They have no horse in this rodeo, right?) President and CEO Cathy Weatherford said they “remain committed to supporting a best interest standard for financial professionals; however, the Department of Labor’s fiduciary rule is already having harmful impacts on Americans planning for retirement.” They commended Acosta for “his continuing commitment to seek and examine public comment on whether to revise or rescind the rule and to collaborate with the SEC during this process.”

There are some industry commenters who insist that the “best interest of the client” issues can be solved with more disclosures. That’s always worked, hasn’t it? Oh wait, no, it has not.

So despite industry, congressional and administrative pressures, somehow the DOL Rule is still plodding along.

The Casino is open on whether it is here on January 2, 2018. Even money says, “No”.

Takers?

## Speaking of Fiduciary Sale : How do you think this sounds?

Bernie Madoff is getting a TAX REBATE of \$13,800. How do you think the clients who lost billions and still haven't recovered much feel? The Anti Fiduciary, himself, the guy who orchestrated the biggest Ponzi scheme in Wall Street history.

The Anti-Fiduciary apparently overpaying the property taxes on his waterfront mansion in Palm Beach, Florida, which his wife still owns. Of course, Ruthie Madoff wants the check. Ruth Madoff sent the cheque back to the tax office asking that it be reissued with her husband's name removed. Joint assets the couple had were seized to help compensate his thousands of victims. Doesn't this count?

Forget about the fact that the defrauded investors would get about \$.75 each. It's about doing what's right. That's what the "ethical" in The Ethical Treatment of Somebody Else's Money is about. That's what In Search of the Ethical Advisor is all about. The disgraced financier Bernie Madoff has received a \$13,800 (£8,500) tax rebate, angering clients who lost billions in the biggest Ponzi scheme in Wall Street history.

## HELPING YOU STAY AWAY FROM THE CROOKS

As an add on “In Search of the Ethical Advisor”, we are continuing to compile “The Good, the Bad and The Ugly”. It is the definitive list of the worst Advisors we have found. It includes crooks, convicted felons, fraudsters and those who were caught ripping off their clients. If you have or hear of an Advisor on this list, Run. You do NOT want anyone associated with these Advisors. Guess who’s on the top of the “Ugly” list.

Right, Bernie takes the top of the heap (or bottom, depending on your point of view)



## More on the Anti-fiduciary DIRTBAG:

So, speaking of my favorite Anti-Fiduciary, the scumbag said the real blame for his record-breaking Ponzi scheme lies with the banks and wealthy investors he claims didn't care whether his firm was legitimate. Right, let's blame the poor saps who were duped by the evil machinations of the Artful Dodger.

Despicable.