

Fiduciary Rules, Update

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Fiduciary Duty--Defined:

Fiduciary---Person, company or association holding assets in Trust for a beneficiary

Duty---legal obligation of a fiduciary or other person in a responsible position

Fiduciary---charged with the responsibility of handling money or property wisely for the beneficiary

Beneficiary---the person who receives or is to receive the benefits from certain acts.

Examples of fiduciaries:

- Executor
- Receivers
- Trustees

People who manage

- IRA accounts,
- 401K programs

Fiduciary Duty—Past History

■ 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

Fiduciary Duty--History

What it was before all this started:

---must be “suitable” for the client

What was next:

---Must manage accounts for the benefit of the beneficiary

Now:

---by one account: a souped up suitability standard

Fiduciary Duty--Latest

From the SEC—Regulation Best interest

- --Takes effect June 30, 2020
- --Supported by the financial industry
- --Relies largely on disclosures to investors
- --Preserves broker's commission-based sales model

Fiduciary Duty—New SEC Rule

Regulation Best Interest

- Brokers must disclose all material fees, costs and conflicts of interest
- Generally prevents brokers from calling themselves “financial advisers” unless they are licensed as such or their firm is registered as an investment adviser

Fiduciary Duty—New SEC Rule

- Requires brokers to justify why they recommend a particular type of account
- Brokers must use “reasonable diligence, care and skill” in making a recommendation, including whether the cost is justified
- Firms must mitigate or eliminate incentives that create material conflicts of interest (forgivable loans)

Fiduciary Duty—Form CRS

- Requires---simple, easy-to-understand summary of information
 - about the nature of their relationship
 - investment adviser or broker-dealer
- Registered investment adviser---
- Retail investor—a natural person or legal representative of such person who:
 - receives a recommendation for any securities transaction or investment strategy
 - uses the recommendation for personal, family or household purposes

Fiduciary Duty---Your part

---Read the Form CRS BEFORE you sign

---Always ask if a simpler, cheaper choice could attain your goals

---Especially if your broker/adviser has recently joined the firm ask if that means they have any loans tied to performance goals

---Keep on and on and on and on asking questions

Fiduciary Rule

Ask---is he/she a fiduciary?

Ask---what he/she means by fiduciary duty?

Ask---Will he/she put it in writing?

Fiduciary Duty--Sources

Wall Street Journal column “The Intelligent Investor” by Jason Zweig on 2/14/2020

FINRA website:>> Rules and Guidance>>Regulation Best Interest

Fiduciary Duty

Thank You

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Fiduciary Duty

Questions?

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