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DOL FIDUCIARY RULE

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Why the Fiduciary Rule Still Matters for Financial Advisors

Although the fiduciary rule is dead, its spirit and intent will live on.

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By Y. David Scharf

Earlier this summer, the Fifth Circuit Court of Appeals revoked the U.S. Department of Labor fiduciary rule , which required that financial advisors and brokers act in the best interest of their clients when overseeing retirement accounts. The court vacated

the rule after the Trump administration opted not to pursue a Supreme Court appeal of the panel's initial split decision against the Department of Labor. Essentially, the Fifth Circuit decided that the DOL did not have the legal authority to issue a regulation changing the definition of a fiduciary.

Although the fiduciary rule is dead, its spirit and intent will live on. The regulation was crafted to protect consumers seeking advice from financial advisors. It stood for the principle that advisors need to avoid conflicts of interest and act in the best interest of their clients, not their firms or for their personal gain. Advisors should offer investment recommendations based on the client's investment goals and risk profile, not because products generate fees.

Many large investment banks and investment advisors welcomed the fiduciary rule. In fact, a significant number of the big and reputable banks and advisors have indicated they will maintain a fiduciary rule standard for the advice they provide, even though it no longer has regulatory force, as a way to promote consumer confidence in their services. And, of course, courts will still hold financial institutions to common law fiduciary duty if they don't adhere to the internal standards they have set.

The best interest rule has resulted in a more aware investing consumer. Many investors now understand they need to be vigilant to ensure the advice they receive is untainted by self-interest financial professionals. So while the rule may be gone, it has fundamentally altered the landscape for financial advisors, in the following ways:

Your clients will ask questions. Before they step into your office, new investors are likely to have researched your background and credentials. Longtime clients may suddenly have new questions about their portfolios and investment strategy. As an advisor, you should be prepared to answer the hard questions from your clients about your allegiances and fee structure—and you should expect to lose clients if the answers aren't satisfactory.

They'll want it in writing. As part of their due diligence, clients and investors may ask you to confirm in writing that you are a fiduciary, placing their best interest above your own. To maintain good client service, you should provide this written assurance regardless of whether clients request it. *TheFiduciaryStandard.org* has a fiduciary oath that you can download and provide to clients. The site also lists firms that have signed the oath .

Transparency is a competitive edge. Adhering to the tenets of the fiduciary rule is not just sound business practice, it also provides you with an advantage in the market. Be assured that your competitors will promote that they're continuing to act as fiduciaries.

As a result of the vacated fiduciary rule, consumers are more aware of how to protect themselves when purchasing financial advice. The end of the formal rule presents advisors with an opportunity to reinforce relationships with clients, by continuing to act in their best interest without the force of regulation—business conduct which is in your best interest, too.

Y. David Scharf is litigation partner at Morrison Cohen LLP in New York, representing clients in securities litigation matters.

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