WHAT THE FIDUCIARY STANDARD MEANS FOR YOU

LPL Financial

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Putting the client's interests first

The Department of Labor's (DoL) fiduciary rule, also known as the "conflict of interest" rule, extends fiduciary status and responsibilities under the Employee Retirement Income Security Act of 1974 (ERISA) to advisors and firms for a broad range of services relating to retirement assets. As a fiduciary under ERISA, it is important to be able to demonstrate and ensure that each recommendation you make is in the best interest of your client:

- Advice is provided in the client's best interest
- Compensation is reasonable
- Any misleading statements are avoided
- Conflicts of interest are disclosed; and
- Policies and procedures are adopted that demonstrate actions are taken in the client's best interest

Impact to your business

Under the DoL's fiduciary rule, subject to certain exceptions, you are a fiduciary if you provide recommendations to a retirement investor for a fee or other compensation relating to:

- Buying, holding or selling securities or other property,
- IRA and 401(k) distributions and IRA rollovers,* or
- The selection of account types or designation of another person to provide investment advice.

Fiduciaries are prohibited from receiving compensation that varies depending on the investment product or program, absent a specific Best Interest Contract (BIC) Exemption. The BIC Exemption permits fiduciaries providing investment advice to continue to receive certain types of compensation based on current business practices.

* LPL does not allow advisors to make an IRA recommendation.

Fiduciary standards now

Activity	What you must do
Investment lineup customized to plan sponsor	Ongoing investment recommendation and monitoring must meet fiduciary standards that ensure the right products are being recommended for their plan.
Investment Policy Statement assistance	While not required under the DOL rule, advisors may assist the plan with the preparation, review and adherence to an Investment Policy Statement
Advisor or advisory services referrals	Advisors cannot receive referral payments or else risk eligibility for level fee exemption.
Provider Benchmarking	While not required under the DOL rule, advisors may assist with periodic plan service reviews to help manage the service provider RFP process to ensure services provided are competitive.
Fee Benchmarking	While not required under the DOL rule, advisors may assist with the creation and storage of fee benchmarking reports, demonstrating reasonableness of fees.
Education to participant related to specific fund option	If the education provided is construed as a suggestion to take/not take action then advisors must provide full disclosure surrounding any financial advice to the client. Non-fiduciary education will not be considered a recommendation if certain requirements under the DoL rule are met.
Education at benefit event (e.g., retire or separate from service)	

How are plan sponsors affected?

For plans already advised by a retirement plan advisor acting as a fiduciary, the plan sponsor and advisor continue to act as co-fiduciaries if services are non-discretionary.

To comply with the DOL fiduciary rules, plans that currently have non-fiduciary advisors need to ensure that the advisor who makes recommendations uses the BIC exemption for the following:

- **Adheres to impartial conduct standards:**
  - Provide advice in the client's best interest
  - Compensation must be reasonable
  - Cannot make material misstatements

What do plan sponsors need to keep in mind?

Plan sponsors also have fiduciary responsibilities for:

- **Hiring someone** to perform fiduciary functions or a service provider
- **Disclosing information** to plan participants
- **Reporting** to Government Agencies
- **Selecting and monitoring investments** for the plan if advisor is an ERISA 3(21) Advisor
- **Selecting and monitoring the default investment(s)** for contributions (QDIA), as well as meeting conditions for fiduciary liability relief for these investments
- **Controlling the assets** of the plan
- **Using discretion** in administering and managing the plan (including the decision to implement auto enrollment and auto escalation of contributions provisions)

Note: These requirements are true whether the plan sponsor hires someone to manage the plan, or the plan sponsor does some or all of the plan management itself.

Some plan communications are exempt

When the fiduciary standard does not apply

Education
General presentation of plan information and information about investment choices (fees, expenses, investment objectives, risks, historic returns)

General Communications
Including descriptions of investment concepts, market data showing performance, price quotes and newsletters

Platform Providers
Who present investment alternatives without regard to investor needs is not considered advice so long as plan fiduciary is independent of platform

Asset allocation models and interactive investment materials are not considered ”covered investment advice.”*

* For IRAs, models may never identify specific investment products