

# PUBLIC SUBMISSION

<b>Received:</b> March 10, 2017
<b>Status:</b> Pending_Post
<b>Tracking No.</b> 1k1-8v6h-3v81
<b>Comments Due:</b> March 17, 2017
<b>Submission Type:</b> Web

**Docket:** EBSA-2010-0050

Definition of the Term “Fiduciary”; Conflict of Interest Rule—Retirement Investment Advice

**Comment On:** EBSA-2010-0050-3491

Definition of Term Fiduciary; Conflict of Interest Rule-Retirement Investment

**Document:** EBSA-2010-0050-DRAFT-13924

Comment on FR Doc # 2017-04096

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## General Comment

I agree with the Fiduciary Rule, however, modifications are needed. Please consider my credentials, 31 years as a Financial Advisor, and credentialed as a CFP, ChFC, and CLU. Additionally, I am licensed as an IAR, Investment Advisor Representative, under my affiliated Broker Dealer firm.

The main point of the Fiduciary Rule is to do what is in the best interest of the client. There are many clients currently sitting in low cost, traditional "A" share mutual funds which carry 12(b)-1 distribution fees. These fees pay the advisor and broker dealer firm very small compensation for the continued servicing of an account. If you strip these fees, or disallow the BD firm the ability to pay these fees to advisors, you will have tens of thousands of customers, (medium to small size accounts), no longer receiving help. The BD firms are already PUSHING to move these low cost "A" share accounts into an advisor fee based platform, but this comes with increased cost. The result here is exact opposite of what Obama intended. Example: as advisor, if I have a client sitting in mutual fund product cost at 50 bps, then to move the client to advisory account, at 150 bps, clearly triples cost to the client. BD firm triples their revenue!

2. Robo advisor is a do it yourself platform. Customers pay a fee of 35 bps to essentially attempt to be their own financial advisor by completing an online questionnaire which then attempts to direct the customer to the correct product. The Robo does not talk, it does not follow up, it can not be held accountable, it can not sense client anxiety, it can not explain verbally, what is rational and what is not. Robos are a way for software engineer/financial service companies to collect investment fees, with no accountability or investment CE requirement. This is akin to a customer going to medical website, answering a few questions to self diagnose, and the medical group down the street collects ongoing management fees off of patients, who have questions, and attempt to do it on their own. This should be outlawed if you really want to upscale financial advise to an increased level of professionalism.

3. broker dealer compliance officers must be barred from individually taking over accounts and collecting commissions and fees from these accounts. Accounts which go "orphan" should only be either sold or transferred to a full time advisor with no other primary job function. I have seen this for years. An advisor quits, or dies or becomes permanently disabled, and the compliance officers circle like vultures so they can reassign accounts to their own rep code! The compliance officer acquires the account, collects ongoing fees, and then NEVER follows up to the customer, because they have NO TIME, as they are overwhelmed supervising all remaining registered representatives. This is CROOKED, and a red hot industry secret. Again, let's craft the law so that customers interests come first.

4. requirements to be a financial advisor must be as follows, i. 4 year degree in some form of either business and /or psychology, (why psych?, behavioral finance), advisors now can enter the industry with no education, armed with nothing more than an ability to peddle product. How is this in clients best interest? Would you go to a doctor with no formal education? ii. Must have CFP credential. Hundreds of colleges and universities now offer curriculum to sit for the CFP exam, but passing the exam shows skills, knowledge and expertise in six relevant areas, investments, retirement, life insurance, group benefits, taxation, and estate plans. Again, you go for surgery , do you want your doctor to have completed their medical internships? CFP is what brings financial advisors up to top level of professionalism, where the fiduciary requirement has already long existed. iii. Must have minimum designation as Investment Advisor Representative in order to collect fees. Many advisors will not do the the work/exams required for IAR because all they want to do is sell high commission front loaded products, How is this in the best interest of the client.

The 1-800 discount providers like Vanguard, Fidelity create a real problem. These are essentially phone reps. There is NO Fiduciary duty. Fiduciary duty is not just low

fees!!! It is doing what is right for the customer. How can one know what is right for the customer without engaging in conversation or relationship? 1-800#s are peddlers. There is no risk assessment done, no budget analysis done, no tax analysis done, no product comparison done. Vanguard certainly will continue to sell product , but it should be only allowed through competent professional advisors.

Fiduciary rule is two fold, 1: lowering of cost, 2: rendering proper advice. In closing, pattern Financial Advisory industry after medicine, after all, we are personal financial surgeons. Let's treat it as such!