

From: [Bruce Weininger](#)
To: [FiduciaryRuleExamination - EBSA](#)
Subject: Comment/Input on DOL Fiduciary Rule
Date: Sunday, August 06, 2017 11:45:46 AM

Sir or Madam:

I have been a Certified Financial Planner since 1989. For 27 ½ of those 28 years I advocated for a Fiduciary Rule in order to ensure that all advisors (even brokers) were held to a standard that put the clients interest first. However, there is one particular provision of the DOL Fiduciary Rule that causes me to request that you fix it or repeal the whole rule. Specifically, the Fiduciary Rule appears to hold that I can't exercise discretion and charge lower fees for bond management than equity management. This interpretation pre-supposes that I am going to steer clients to equities because I am paid more for equity management. If this were true, I find it highly unlikely that in almost 30 years of practice, I have never been subject to a complaint, an arbitration claim, or a lawsuit. Nor have I ever had to settle a claim. I understand it is difficult – maybe even impossible - to specifically define what actions or business models are not consistent with being a fiduciary. But I know the mark was missed with this rule. I understand it is difficult – maybe even impossible - to specifically define what actions or business models are not consistent with being a fiduciary. But this rule misses the mark. If you want to draw lines around business practices, perhaps you specifically call out the worst offenders like those that jam annuities into tax-deferred accounts or churn accounts to generate commissions.

But if defining those bright lines proves too difficult, then why can't the Fiduciary Rule simply state that all advisors must act in a fiduciary capacity and leave it at that? The Fiduciary Rule would then likely meaningfully improve behavior of the worst advisors who would no longer be able to rely on "suitability," without disrupting those of us who are simply trying to align our fee with both our value proposition and our costs. There are reasons that the average bond fund charges less than the average stock fund. First, personnel costs are less to manage bonds. Second, it is awfully hard to make the case that someone should pay you 1% to create a bond ladder. I charge half that amount for bond management – but the Fiduciary Rule seems to imply that the client is being disadvantaged.

Please fix the Fiduciary Rule versus assuming that I will behave badly – even when all evidence (no lawsuits, arbitration claims or settlements in 30 years) is to the contrary.

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