

*According to the White House Council of Economic Advisers, financial advice tainted by conflict of interest drains a whopping \$17 billion from retirement accounts every year.\* We encourage you to ask yourself, "Do I want the highest standard of care for my assets?" If the answer is yes, then make sure that all your investments are managed by professionals who openly embrace fiduciary standards and are completely transparent as to how they are compensated.*

The U.S. Department of Labor's (DOL) new Fiduciary Rule is intended to address conflicts of interest that permeate the financial industry. Although many of our peers have had to alter their business practices to comply with the rule, nothing will change here at The Trust Company of Virginia. Since our founding, our advisers have operated with the utmost integrity and loyalty. Our investment services are tailored to your unique needs and we strive to ensure that our advice is free from conflicts of interest. Our goal is to see that your investments and savings are more than adequate for you and future generations.

Most of the requirements under the new fiduciary standard went into effect on June 9, 2017. However, enforcement will not occur until January 1, 2018. It is important to note that the rule only applies to retirement accounts. Accounts funded with after-tax dollars are not considered retirement plans even if they are earmarked for that purpose.

Before the DOL's ruling, the absence of a uniform fiduciary standard for all financial professionals negatively impacted investors. Too often they were subjected to excessive fees, hefty commissions (sometimes hidden), and substandard performance. Not surprisingly, those financial representatives who are impacted by the new rule want to see it repealed.

Keep reading to find out what the new rule intends to accomplish, who will be affected by it and why fiduciary standards should matter to you. First, it is important to understand the difference between the fiduciary standard and the suitability standard.

### Explaining the Fiduciary Standard

In accordance with the Investment Advisers Act of 1940, investment advisers are bound to act in the very best interests of their clients. Additionally, in whatever capacity they serve, advisers must put customers' interests before their own. Specific services might include asset management, wealth preservation, estate services or trust funds.

The wording of this act is clear, recommendations that financially benefit advisers or their firms at the expense of clients are prohibited. Investment advice must be based on accurate, complete information. Potential conflicts of interest must be fully disclosed up front. Advisers must do their best to trade securities efficiently and at the lowest possible costs.

All of this is reflected in the courteous, ethical behavior of anyone who serves you at TCVA. Not only do we take our professional responsibility to clients very seriously, but we take great pride in acting as their fiduciaries, as we have since our founding.

### Explaining the Suitability Standard

Although common sense would dictate that **ALL** financial professionals would be required to put their client's interest ahead of their own, this simply has not been the case.

Broker-dealers, insurance salesmen, and other financial representatives are also regulated, but they are exempt from the fiduciary requirements of the Investment Advisers Act of 1940 due to regulations failing to keep up with an ever-changing financial industry. Instead, they act under what is called the suitability standard of care. They are only required to give advice that is suitable for a client's circumstances and financial goals which often is broadly interpreted to the detriment of the investor. Under the suitability standard, financial advisors are also expected to avoid excessive transaction costs and unnecessary trading for the sole purpose of generating commissions. What is deemed excessive and unnecessary is often open to interpretation.

The most marked distinction between the two standards concerns loyalty. The suitability standard makes no mention of putting clients' interests first. A broker-dealer has free rein to recommend the products that pay the largest commissions. The potential for conflicts of interest is undeniable. Some broker-dealers use the term 'fee-based' to imply they only charge an advisory fee, but in fact also receive other forms of compensation.

Here is a practical example: An investor has just changed employers and is contemplating what to do with their 401(k). A broker-dealer might propose rolling it over into an individual retirement account (IRA). Investment options may include a low-cost index fund that charges 0.1 percent annually or a largely identical proprietary product that charges 0.5 percent annually. The latter may also provide additional compensation such as rebates and kick-backs to the financial representative.

Under the fiduciary standard, the representative would recommend the low-cost index fund assuming similar performance expectations. Under the less rigorous suitability standard, the representative can recommend the costlier option without even mentioning the cheaper alternative.

Not all brokers follow this practice. Many have high personal standards. Under the suitability standard, however, acting in a client's best interest is a choice rather than a legal obligation, and financial incentives can be powerful. Unfortunately, there will always be agents who favor commissions over clients' financial well-being.

## **Explaining the New Fiduciary Rule**

The new ruling will do away with the dueling standards. It will require any professional who solicits products or financial advice to assume full fiduciary responsibility. It mandates that broker-dealers and financial planners put customers' best interests before their own. Conflicts of interest, fees and commissions must be disclosed up front. This will eliminate unscrupulous practices that affect unwary consumers.

The rule has stirred controversy. Critics say that it disproportionately favors consumers. Proponents believe that it could be even more strongly worded.

## **How the New Rule Affects You**

At TCVA, we have always managed our clients' assets as fiduciaries. Regardless of whether the new rule is enforced as is, watered down or altogether repealed, the change will have no bearing on how we operate. You can expect the same sound investment advice and unparalleled service that we have always provided. Our commitment to you is built on complete transparency, extensive knowledge and years of experience.

If you are new to TCVA, we hope to build a long-term, meaningful partnership in which you fully participate in planning for your future. Schedule an appointment today to discuss retirement planning, estate services, trust funds, wealth preservation or asset management. ■