



HIGHLIGHTS

- Registered reps and RIAs are regulated separately and adhere to different standards. RIAs comply with a “higher standard of care” since they are required to put the interests of the clients first.
- Congress is considering legislation that could include brokers in the RIA standard, although it is a long way from being final.
- Regardless of the potential new law, industry experts say we are moving toward more transparency and a higher, more universal fiduciary standard.
- Prospects and clients – fed up with Wall Street greed – want advisors whose standards are clear and who put them at the center of their process.
- Set yourself apart. You will gain a competitive advantage if the fiduciary standard is a core value and you take the initiative to make sure clients understand why it is important.
- This white paper suggests ways you can communicate your fiduciary commitment to prospects and clients.

IS YOUR FIDUCIARY STANDARD A CORE VALUE? DO CLIENTS AND PROSPECTS UNDERSTAND WHY IT MATTERS?

A universal fiduciary standard, as part of financial reform legislation, continues to be debated by both houses of Congress.

In the Senate, the latest version of the Restoring American Financial Stability Act of 2010 originally included the fiduciary standard clause, which called for registered representatives to put clients’ interests first.

This has been replaced by the “Johnson Amendment,” which calls for a study by the Securities and Exchange Commission “to determine appropriate obligations of brokers, dealers, investment [advisors] and their associated persons relating to the provision of personalized investment advice about securities to retail customers.”¹ Following the study, the amendment calls for the SEC to determine oversight rules for advisors and broker/dealers. Any action toward a universal standard would be delayed by more than a year.

This delay is in spite of an already-completed, SEC-sponsored study clearly showing that Americans do not understand the distinctly different commitments to clients that are represented by RIAs and brokers. Under current rules, RIAs are required to “put the client’s interests first.” This compares with a registered representative’s role as a sales person, or agent, for a brokerage firm where financial advice is incidental to the sale of a financial product.²

Unlike the Senate’s bill, the House of Representatives version – the Wall Street Reform and Consumer Protection Act – calls for the Securities and Exchange Commission to write new rules “extending fiduciary standards to brokers.”³

Trend is Clear

Whether or not the fiduciary standard is expanded to include registered reps, the media has focused attention on the range of criteria that applies to individuals who offer some kind of investment advice. Perhaps more important than legislation, the public, supported by the media, is demanding more transparency from financial advisory professionals.

With advocates on both sides of the issue, those who speak for a higher standard appear confident that they will ultimately prevail, whether change is made in the pending financial reform legislation now or at some point in the future.

Advocates for a higher standard represent a virtual “who’s who” of industry leaders. “No man can have two masters,” said John Bogle, founder of Vanguard Group. Others speaking up for a universal standard include Don Phillips, managing director of Morningstar, Inc.; Roger Ibbotson, chairman of Zebra Capital Management; John Markese, president of the American Association of Individual Investors; and Terry Savage, a well-known personal financial expert.⁴

In fact, Richard Ketchum, chief executive of the Financial Industry Regulatory Authority, which oversees brokers, is confident that some kind of expanded fiduciary standard is inevitable. He “told an audience of compliance professionals that, while a proposed financial-overhaul bill unveiled in the Senate on Monday didn’t require such a move, it and a bill passed by the House of Representatives in late 2009 signal a trend toward higher standards... [H]e discussed the standard as if its ultimate application to the brokerage industry remains likely.”⁵

Take Advantage of a Marketing Opportunity

Whatever standard applies to your practice – the RIA fiduciary standard or brokerage rules – make sure your clients understand what your commitment means for them. If you are a broker, take the lead from Richard Ketchum, or David Coffaro (see sidebar), move toward a fiduciary approach, and create a competitive edge for yourself.

One who sees a positive way to set yourself apart is Evan Cooper, editor of InvestmentNews. “Investors are confused, misinformed and hungry for honesty. They want fiduciary treatment, they just don’t know what it is ...,” he says. “It’s ... the greatest marketing opportunity ever – if only fiduciary advisers would stop banging their heads against Wall Street and start telling investors why they’re better.”⁶

Set Yourself Apart: Communicate the Value of the Fiduciary Standard

If you are looking for ways to create a marketing edge, make sure that clients and prospects understand why they can count on you to put their interests ahead of other considerations.

Clients and prospects want an advisor they can trust. And building a trusted relationship is clearly correlated with incorporating the core value of fiduciary responsibility into your practice.

Even though you know yourself that you are honest and motivated to do your best for your clients, it is especially challenging to convince prospects that you are an advisor they can trust to put their interests first.

Incorporate the fiduciary standard into the center of your practice. Then *demonstrate* that the responsibility is woven into every aspect of your advisory business. *Show* clients and prospects that you put their interests ahead of your own. **Prove through your actions** that you have developed a structure and process which incorporate transparency and enhance your fiduciary responsibilities.

[Speaking at a bankers’ conference] *David G. Coffaro, chief fiduciary officer at Wells Fargo, said ... that whether or not a fiduciary standard is legislated for broker/dealers, financial advisors can use the fact that they are fiduciaries to speak to investors about how a fiduciary standard benefits investors.*

“A fiduciary philosophy is grounded in prudence and risk management. To the extent that fiduciaries can say, ‘here’s the way that we think and here is how we approach this environment to further your financial goals,’ then it’s about a philosophy that can benefit an investor regardless of economic conditions.”

Coffaro said that advisors need to be proactive at seeing the opportunity of fiduciary responsibility and discussing with clients about what’s in their best interest.

When an advisor puts the client’s interests first, Coffaro said, the reward is repeat business and referrals to other clients. “It’s not a transaction anymore it’s a relationship,” he said.

Use the Checklist for Prospective Clients

The Checklist for Prospective Clients, included with this white paper, can help make your fiduciary commitment a reality when you are meeting and putting yourself forward to develop a relationship.

Essentially a script or list of questions that the prospect can ask you, the Checklist highlights information they should know about you. There is an advantage to the Q & A format; you are not just delivering a “presentation.” Instead, it supports a back-and-forth dialogue that engages both you and the prospect.

You can use the Checklist either in its entirety or to adapt approaches that fit your style. Here are a few ideas for taking advantage of the Checklist:

Introduce the list by saying, “I want to make sure that all your questions are answered during this meeting. These are the questions that our clients ask, and they are ones we feel are important. We believe that if you have the answers, you will have a good idea about how my firm and I will serve your interests in the years ahead.”

You can, of course, review the questions and make sure you have prepared answers that address the client’s spoken and unspoken concerns. Be sure to highlight the “how are you regulated?” question. That gives you an opening to talk about your core values and where your priorities lie.

As you are wrapping up, make a final point about the fiduciary standard. Bring in points from your discussion regarding risk/reward, due diligence and especially concepts that have emerged as being the most important to your prospect.

Finally, while the Checklist is designed for new potential clients, you can adapt and apply the Q & A process to ongoing clients as well.

The Checklist creates an ideal format for providing information with fiduciary concepts woven into the discussion. And, if you doubt the value of information to build confidence, remember how the stock market functions. Think of the days that it rises on what many consider to be negative news. The reason is often attributed to the fact that the direction of the economy seems more clear, that the piece of information (legislation finalized or a government statistic, such as unemployment levels) is now known, rather than an uncertainty.

As a final indicator of your confidence and sincerity, ask the prospect if he or she will be meeting with other potential advisors. If so, encourage them to take along a fresh copy of the Checklist as a basis for discussion and comparison in their upcoming interview.

Your Platform Supports the Core Value of Fiduciary Responsibility

Whether you are meeting with a prospect for the first time or getting together for a review with a long-time client, your commitment to their best interests is woven seamlessly into the conversation and the relationship.

But that can’t happen in a vacuum. You cannot deliver on the assurances you are making without a business structure that supports transparency, integrity, and investment choices that meet suitability requirements. Ideally, every component of your business – beginning with initial risk assessment and investment policy development – will be focused on providing an experience that puts the client’s needs at the center.

The right technology will free you to focus on your clients and business development, and it will provide a framework for decision-making that keeps you solidly within fiduciary guidelines. For example, increasing emphasis on transparency means documenting each step of the process. A process-driven platform will empower you to maximize your productivity.

Envestnet’s platform helps advisors “build their practices around a solid fiduciary process, from monitoring the risk tolerance of clients and creating a proper asset allocation to selecting the



right investment products.”⁷ It is flexible, using a decision tree format that allows you, the advisor, to ultimately control the fiduciary process and be responsive to the unique needs of your clients. It is platform driven by process, not a product.

For more information on Envestnet’s ten-step fiduciary process that puts clients at the center of your decision-making, see www.envestnet.com/yourfiduciaryopportunity/tensteps.html.

Transformation is Happening Now

An understanding of the fiduciary standard makes a world of difference to both clients and prospects who have endured almost two years of excessive investment volatility. These are individuals and families who are seeking confidence and looking for an advisor they can trust. No investment advisor can guarantee stock and bond market results, but they can assure clients that business is done based on a high standard with a level of care that assures their interests are at the center of the process.

¹ Senate Banking Committee Report, “Restoring American Financial Stability Act of 2010,” March 2010, page 767. http://banking.senate.gov/public/ files/ChairmansMark31510AYO10306_xmlFinancialReformLegislationBill.pdf

² Hung, Angela et al, *Investor and Industry Perspectives on Investment Advisers and Broker-Dealers*. RAND Corporation, 2008.

³ Hansard, Sara. “Johnson amendment would let brokers off the fiduciary hook,” *InvestmentNews*, February 16, 2010. www.investmentnews.com/apps/pbcs.dll/article?AID=/20100216/FREE/100219925/1094/INDaily01&template=printart

⁴ Jamieson, Dan, “John Bogle on fiduciary standard: ‘No man can have two masters’: Host of marquee names back call for applying fiduciary standard to all advisers,” *InvestmentNews*, March 19, 2010. www.investmentnews.com/article/20100319/FREE/100319816/0/BROKERDEALERS

⁵ (Dow Jones), “FINRA’s CEO Expects Eventual Move To Fiduciary Standard, *Financial Advisor*, March 18, 2010. www.fa-mag.com/fa-news/5339-finras-ceo-expects-eventual-move-to-fiduciary-standard.html

⁶ Cooper, Evan, “Fiduciary setback: Your greatest marketing opportunity ever? No government requirement? Fine. Fiduciaries can win in the free market if they try harder,” March 24, 2010. www.investmentnews.com/article/20100324/FREE/100329945

⁷ Banjo, Shelly, “Getting Ready for a Fiduciary World,” January 13, 2010. <http://blogs.wsj.com/financial-adviser/2010/01/13/getting-ready-for-a-fiduciary-world>



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