ADVISING ADVISORS

QUICK STATS

- **CONFERENCE:** Regulation
- **TEAM:** Department of Labor
- **FUMBLE:** $2.4 - $5.7 billion over ten years[317]
- **HOW TO RECOVER THE BALL:** Withdraw the rule; work with Congress to address changes, if needed

Federal regulators now want to advise your advisor. Earlier this year the Department of Labor launched a fiduciary rule that expands their control of retirement advice covered by the Employee Retirement Income Security Act of 1974 by including any advice on Individual Retirement Accounts (IRAs) and annuities by investment advisors or brokers. The goal of the newly expanded rule is to prevent any conflict of interest on the part of those suggesting or marketing a specific retirement investment.[318] This sounds complicated, but it is really simple: you can only get advice from people they approve.

Currently advisors for 401(k) or other employee benefit plans are held to a *fiduciary* standard, meaning they must always put a client's interests and account above their own interests (making money for themselves). However, a person serving as an advisor on an IRA or annuity is held to a *suitability* standard, meaning he or she has to reasonably believe the advice given is in the client's best interest. Under the proposed rule, the suitability standard would be replaced by the tougher fiduciary standard. It sounds good, right?

The problem with this change is that it fails to recognize that IRA and annuity accounts tend to be higher risk and come with higher fees or commissions. Under the new rule, a retirement advisor would likely be forced to only recommend utilizing safer, lower-yield 401(k) or other retirement accounts that also come with lower fees. This is especially true for those investors who have a smaller amount of money to invest. It is very likely that advisors would be afraid to violate their "fiduciary duty" by recommending IRAs or annuities due to the risk that the investments could lose money. At the same time, investors would lose out on advice that could potentially bring much higher returns.[319]

Because the risk is higher for middle-class clients, the new rule also means that most advisors will only take wealthy clients. It will thus be harder for most Americans to get good financial advice except from big investment firms. Ultimately this rule will make the big investment companies bigger and cause the small companies to go out of business.

RECOVERY

Why is the Department of Labor even in the business of regulating financial services when SEC already exists for that purpose? DOL should withdraw this rule, and Congress, in consultation with SEC and financial advisors, should consider whether changes to the current rule are necessary. If changes are needed, Congress should enact legislation instead of allowing a federal agency to create a new rule.

For more information, please visit:
DOL: Fiduciary Investment Advice
Pensions & Investments: DOL moving forward on new fiduciary standard