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Definition of the Term ‘Fiduciary’; Conflict of Interest Rule—Retirement Investment Advice

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

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General Comment

I am an investment professional with a CFA designation, part of an advisor team that works with over 200 small business individual 401k and SimpleIRA clients who utilize a program held direct with a large mutual fund company who has a specific product design called a SingleK plan that is low cost (less than \$30 per year per participant), has dedicated contribution systems, allows for loan processing, 1099 production, plan design and administration, auto contribution, fund allocations and reporting both hard copy and online. The share class used is a R share with no load and 12b-1 of .50% which is fair compensation for the support we provide and monitoring for plan design, call in advise, etc. These are participant self-directed programs. The platform also is used for SimpleIRA programs for small employers who have multiple employees, with the same services and low costs. In essence this direct program provides small businesses a program with cost and services that are

normally accessible to larger institutions, and very technologically based and easy to use. Under the DOL Fiduciary Rule, there is a threat that this type of direct administered, low cost program will need to be brought onto a "Brokerage Platform" or put on a "Retirement Plan Service Contract with a wrap fee" which mutual fund companies are not equipped to do, or should do. We have been specifically making our point to our Broker Dealer that requiring this type of account to be held in a brokerage account, or to have to be under a "Retirement Service Wrap Fee type contract", is not in the best interest of these small business owners and sole proprietors and would take away a very important option in today's marketplace, for no reason. This is a major disservice to small business owners, and would benefit large wire houses at the expense of eliminating a low cost direct option for clients (both sole proprietors, owner only and small business (for the SimpleIRA. Please exclude small business direct mutual fund programs(owner only, small untested 401ks and SIMPLE IRAs) from the DOL Fiduciary provisions as they are not needed and would be severly disruptive. One provision on "level comp" would actually be a deterrent to the clients as they would need to begin paying a compensation fee on "Cash Reserves or Money Market" holdings. In today's environment, there is no return on such cash holdings, and causing a fee would create a negative real return. It would be better to place some monitoring if you truly believe advisors have a disincentive to allow clients to hold cash. Our clients self-direct these programs, no different than any other 401k participants, and we think it is a disservice to charge a "wrap fee" on money market holdings. We would be happy to hold more detailed records on participants in a data base, but because the participants self-direct, our role is different. Again, please exempt small business 401k plans. If we were to bring these accounts onto a brokerage platform, we could not sign a "Best Interest Contract". Holding assets on brokerage platforms opens up a whole list of other issues, including transaction costs for regular contributions that come in weekly and daily. Minimums for mutual fund trades on brokerage platforms run \$30. This is cost prohibitive for clients contributing for example \$100 a week among five different investment options. Many smaller plans would be abandoned. The Fiduciary rule is just not needed in this sector. Consider controlling product designs if needed and eliminate high compensation products that have a potential for conflict of interest. For instance, Annuity sales could be controlled by not allowing up front compensation, but instead a servicing trail. Mutual fund pricing structures could be aadjusted to avoid front end sales/back end sales charges. Thank you.

Attachments

Single_K_Fast_Facts