

From: David Lutz <dlutz@aicinvest.com>
Sent: Thursday, July 06, 2017 11:57 AM
To: FiduciaryRuleExamination - EBSA
Subject: Please add my comments to the DOL Rule determination

To whom it may concern:

Hello. My name is David Lutz and I am a CERTIFIED FINANCIAL PLANNER™ in McMurray, PA. I would like to express my displeasure with the new DOL rule or “best interests” standard that the government is currently implementing. Unfortunately, like the “Affordable” Care Act I see it as another example of the government calling something good in principle, but when you dig into the details it does not meet its stated objective. For example:

- 1) Say I get a buy and hold client with \$100,000. I put them in a mutual fund class A share today. That client pays a one-time 3.5% sales charge or \$3,500 up front. Each year there is a .25% 12b-1 fee which covers the cost of our annual meeting. Unfortunately, a commission is now viewed as a conflict of interest under the DOL rule. An alternative compensation method would be an asset based or retainer fee. So let’s look at those shall we. Assuming an advisor charges a 1% of assets fee per year, over 10 years the client will pay \$10,000 under a retainer fee or possibly more if the value of the account goes up under the asset based fee. Apparently a client paying almost 3 times more is OK under the DOL rule. No wonder Merrill Lynch originally wanted to get rid of all commission based accounts. They were going to make more money. How is paying more and limiting the types of compensation models a client can choose from in a client’s best interest?
- 2) My broker dealer is no longer allowing IRA accounts to be opened directly at the fund family because they can’t be supervised. As a result, clients will now incur higher annual maintenance fees, ticket charges on trades, and account termination fees should they ever close their brokerage IRA. How are higher costs in the client’s best interest?
- 3) Many major brokerages like Ameriprise and Wells Fargo are already slashing the number of funds available on their platforms such as Vanguard, the lowest cost operator in the industry. Once again, how are less lower cost choice options in a client’s best interest?
- 4) The number of forms and length of forms a client now needs to review and sign has gone up to the point we are becoming the mortgage industry. How are more confusing forms in a client’s best interest when most of them just sign it without reading it anyway?
- 5) I am not able to open accounts until all forms are completed properly and reviewed by my compliance department. So, even though I can meet with a client and get their approval to open an account, my compliance department can reject the opening of the account even though they have never met with or know the client’s needs. Once again, how is taking decisions out of the financial advisor’s hands who knows the client better than anyone in a client’s best interest?
- 6) My broker dealer is levelizing mutual fund commissions to 4% if you still want to work with a client on a commission basis. For accounts where the commission is higher than that, they get to keep the additional commission. That leaves me less money to run my office forcing me to get more clients and work harder leaving less time to service existing clientele. How is that in my client’s best interest?
- 7) The rule doesn’t cover non-qualified or non-IRA accounts. So some advisors have to act in someone’s best interests for their IRA accounts but don’t for non-IRA accounts. How is not having to act in a client’s best interest for all their accounts in their best interest again?

As you can hopefully see, there are many flaws with the way the law is currently written. The way I see it is you honestly don't need a new 1,023 page confusing law which is putting policies in place that limits choices, increases costs, and frustration. A fiduciary duty is already on the books. Just make everyone become a CFP®. The CFP Board will enforce the fiduciary standard which it always has and the problem is solved. I hope by bringing this to your attention that I have given you some information to share with other acting members.

Thank you very much for your time and consideration. If I can be of any further assistance, in regards to this matter, please don't hesitate to e-mail or call.

David J. Lutz Jr.
CERTIFIED FINANCIAL PLANNER™

Celtic Financial Services LLC
Malanos Building
3025 Washington Road, Suite 104
McMurray, PA 15317
Phone: (724) 260-5529
Fax: (724) 260-5532

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