Bond Case Briefs

Municipal Finance Law Since 1971

CNBC: Fiduciary Standard Soon May Regulate Brokers-Dealers Deals.

Three years after Congress passed financial reform, the Securities and Exchange Commission may finally be taking concrete steps toward establishing a fiduciary standard for brokers, a change that consumer advocates say would provide real protection in an industry currently governed by a hodgepodge of rules.

“Brokers-dealers are not just order-takers,” said Arthur Levitt, former SEC chairman. “This is extremely important, otherwise the industry wouldn’t be fighting it.”

Because the standard would be so sweeping, “fiduciary standard” may be the most important financial phrase you’ve never heard.

Under such a standard, hundreds of thousands of brokers would be legally obligated to act in their clients’ best interests when recommending investment products. The most important change for consumers is that they would have greater legal standing to sue in cases where they had evidence they had been wronged.

At the moment, brokers (including people working for big Wall Street firms), small locally owned brokerages and insurers are obliged only to recommend “suitable” products. The 10,500 firms licensed as registered investment advisors with the SEC already operate under a fiduciary standard. (To further confuse the matter, many brokers call themselves advisors.)

The current regulatory system means that brokers are legally permitted to recommend a higher-priced mutual fund to investors even if they know a low-cost one with better returns exists. Many brokers are compensated partly by commissions from mutual funds.

Dodd-Frank authorized the SEC to impose a fiduciary standard on brokers. But the agency, swamped with other rule-making related to the act, has so far done little.

That may be about to change. In her testimony, new SEC Chairwoman Mary Jo White, a former federal prosecutor, identified “appropriate standards” for broker-dealers and investment advisors as an item on a short list of policy matters of particular importance. Last month, the commission asked for input a potential regulation by July 5.

Various interest groups are hardening their stands. The most powerful player is the Securities Industry and Financial Markets Association (SIFMA), which represents broker-dealers, including the big financial firms, such as Bank of America, Merrill Lynch and Charles Schwab. The stakes in an industry upheaval are big: According to Boston-based Aite Group, about 450,000 people give consumers financial advice; 45,000 to 50,000 of them work as registered investment advisors (RIAs) , and the rest operate under the aegis of broker-dealers.

Ira Hammerman, general counsel of SIFMA, said it wants rules that outline “how a multifaceted institution can comply with a fiduciary standard.”

Consumer advocates are worried that a new set of rules won't be strong enough to protect the public. RIAs are concerned that complex set of new rules will give big firms an advantage. According to the Investment Adviser Association, the typical SEC-registered firm is a small business with an average of eight employees, though a handful are much larger.

"Nothing has been done to add protections, and there are concrete signs that we are worse off," said Knut Rostad, president of The Institute for the Fiduciary Standard, who said his worry is that the SEC's request for input suggests that it will adopt rules that will water down the broad fiduciary standard under which RIAs function.

Everyone describes the pace of change as slow.

David Tittsworth, executive director of the Investment Adviser Association, said that when he sent out a notice to his members of the SEC's recent actions on the issue, one member wrote back asking, "Wasn't this settled two or three years ago?"

No. And even the latest moves don't necessarily signal rapid rule-making—just some progress toward a decision.

Levitt, the former SEC chairman, said, "These issues tend to stay with the commission for a long time."

Copyright © 2026 Bond Case Briefs | bondcasebriefs.com