Fiduciary Advocates Warn SEC Not to Water Down Uniform Standard.

Advocates for strengthening investment-advice rules for brokers are warning the Securities and Exchange Commission not to dilute the standard that currently applies to investment advisers — acting in the best interests of clients.

As the July 5 deadline approaches for comments on a SEC cost-benefit analysis of a potential uniform fiduciary standard, investment-adviser groups are concerned about assumptions included in the request for information.

The parameters are designed to give respondents an idea of how a uniform fiduciary duty might work. But they are making fiduciary proponents nervous.

"Don't water down this [fiduciary] duty that has been very well-established and do not create different standards of care for different kinds of clients," David Tittsworth, executive director of the Investment Adviser Association, said Monday during the InvestmentNews Regulatory Roundtable in Washington.

Mr. Tittsworth's organization was one of nine that signed a June 4 letter to SEC Chairman Mary Jo White asserting that if the parameters in the cost-benefit analysis request were used to draft a uniform fiduciary rule, it would significantly weaken the fiduciary standard for investment advisers. Advisers must act in the best interest of a client, while brokers meet a less strict suitability standard when selling financial products.

"This approach is one that would have negative consequences for advisers and is one we would vigorously oppose," the letter states.

The parameters include those that follow provisions in the Dodd-Frank financial reform law, such as allowing brokers to continue charging commissions and selling from a menu of proprietary products and not subjecting them to a continuing duty of care or loyalty to a retail client.

Another guideline in the SEC release is that the application of the fiduciary standard of care could be determined in a contractual arrangement between an adviser and client, which closely follows the fiduciary framework submitted to the SEC by the Securities Industry and Financial Markets Association in July 2011.

"A key concept is missing from these assumptions, and that is 'the best interest of the client,'" Marilyn Mohrman-Gillis, managing director of public policy and communications at the Certified Financial Planner Board of Standards Inc., said during the roundtable. "[The] assumptions seem to lead to a disclosure-only fiduciary standard."

Throughout the information request, the SEC reiterates that the assumptions do not automatically influence any rule that is drafted.

Ira Hammerman, SIFMA's senior managing director and general counsel, said that his organization supports a best-interests investment advice standard. In addition, he noted that the Dodd-Frank law stipulates that a uniform standard must be no less stringent than the one advisers currently meet.

"Everyone should have the comfort that Dodd-Frank itself, the actual law, prevents any watering down," Mr. Hammerman said at the roundtable discussion. "No one is looking for fiduciary-light or any sort of minimal fiduciary standard. What we are looking for is clear guidance" on how a uniform standard would work across advice business models.

Many industry participants argue that a uniform fiduciary standard must not limit access to advice for investors with modest assets, who may not be able to afford fee-only advisers.

"Our bottom line is, we're looking to avoid those unintended consequences of not giving advice to the small investors," Dale Brown, president and CEO of the Financial Services Institute, said at the roundtable.

The Dodd-Frank law authorizes the SEC to release a uniform fiduciary-duty standard, but the agency has moved slowly on the rule.

A big challenges is writing a rule that can apply equally to advisers and brokers.

"It's the context that makes the difference," A. Heath Abshure, Arkansas' securities commissioner and president of the North American Securities Administrators Association Inc., said during the InvestmentNews event.