

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

---

## **Brokers Willing to Pay Up for Fiduciary Standard: SIFMA.**

Financial Planning Coalition says BDs with fiduciary accounts see stronger asset growth; Schwab says RIAs must beware of harmonization.

A uniform fiduciary standard implemented by the Securities and Exchange Commission would hit brokers with \$8 million in new compliance costs, according to the Securities Industry and Financial Markets Association.

Updating disclosure documents would cost \$3 million, and the initial build-out of compliance systems and training would cost another \$5 million, said SIFMA, which represents banks, securities firms and asset managers.

Whether an RIA is SEC or state-registered, the firm must have policies and procedures in effect to protect clients' privacy. Policies and procedures should explicitly require an RIA to send out its privacy notice each year.

Registration Requirements for Investment Advisor Representatives (IARs)

When individuals launch an advisory firm, they must avoid marketing themselves or the firm as investment advisors before they are properly approved and registered. Otherwise, they are subject to severe penalties.

But Ira Hammerman, SIFMA's senior managing director and general counsel, told AdvisorOne on Monday that BDs "are generally willing to incur" the above mentioned additional compliance costs "in order to arrive at a new fiduciary standard."

The Financial Planning Coalition of advisory industry trade groups argues that advisors at BDs who deliver advice under a fiduciary standard experience stronger asset growth, and that the conversion of fee-based brokerage accounts to fiduciary, nondiscretionary advisory accounts would impose "little if any additional cost or burden."

Charles Schwab, however, flipped the scenario around, telling the SEC in its comment letter what it would cost for registered investment advisors to comply with BD rules should the agency decide to include "harmonizing" BD and advisor rules in its fiduciary rule proposal.

Depending on how broadly the commission would apply "harmonized rules — whether to some or all RIAs," harmonized rules could cost the RIA industry a whopping \$1 billion, Christopher Gilkerson, Schwab's senior vice president and deputy general counsel, told the SEC.

SIFMA, Schwab and the coalition members — which include the Financial Planning Association, the National Association of Personal Financial Advisors and the CFP Board — expressed their views in comment letters to the SEC as part of the agency's March 1 request for information on the costs and benefits of a uniform fiduciary standard. The comment period ended July 5.

Hammerman told the SEC that "SIFMA remains strongly supportive of a uniform fiduciary standard

for broker-dealers and investment advisors when providing personalized investment advice about securities to individual retail clients.”

SIFMA surveyed 18 of its member firms — 12 large BDs and six regional ones — to arrive at the \$8 million in additional compliance costs under a fiduciary standard. SIFMA said that it focused on two specific areas where its members believe they would be hit hard by a fiduciary rule — the costs of developing and maintaining a disclosure form similar to Form ADV Part 2A, and the costs of developing and maintaining new supervisory systems, procedures and training programs to implement the new standard.

SIFMA noted in its comment letter that as the SEC has not issued a “concrete” fiduciary proposal yet, “it is not possible to adequately identify and estimate all the costs of establishing a uniform fiduciary standard.”

The coalition used Cerulli Associates data from 2007 to back up its argument that the conversion of non-fiduciary, fee-based brokerage accounts to fiduciary, nondiscretionary advisory accounts would impose “little if any additional cost or burden.”