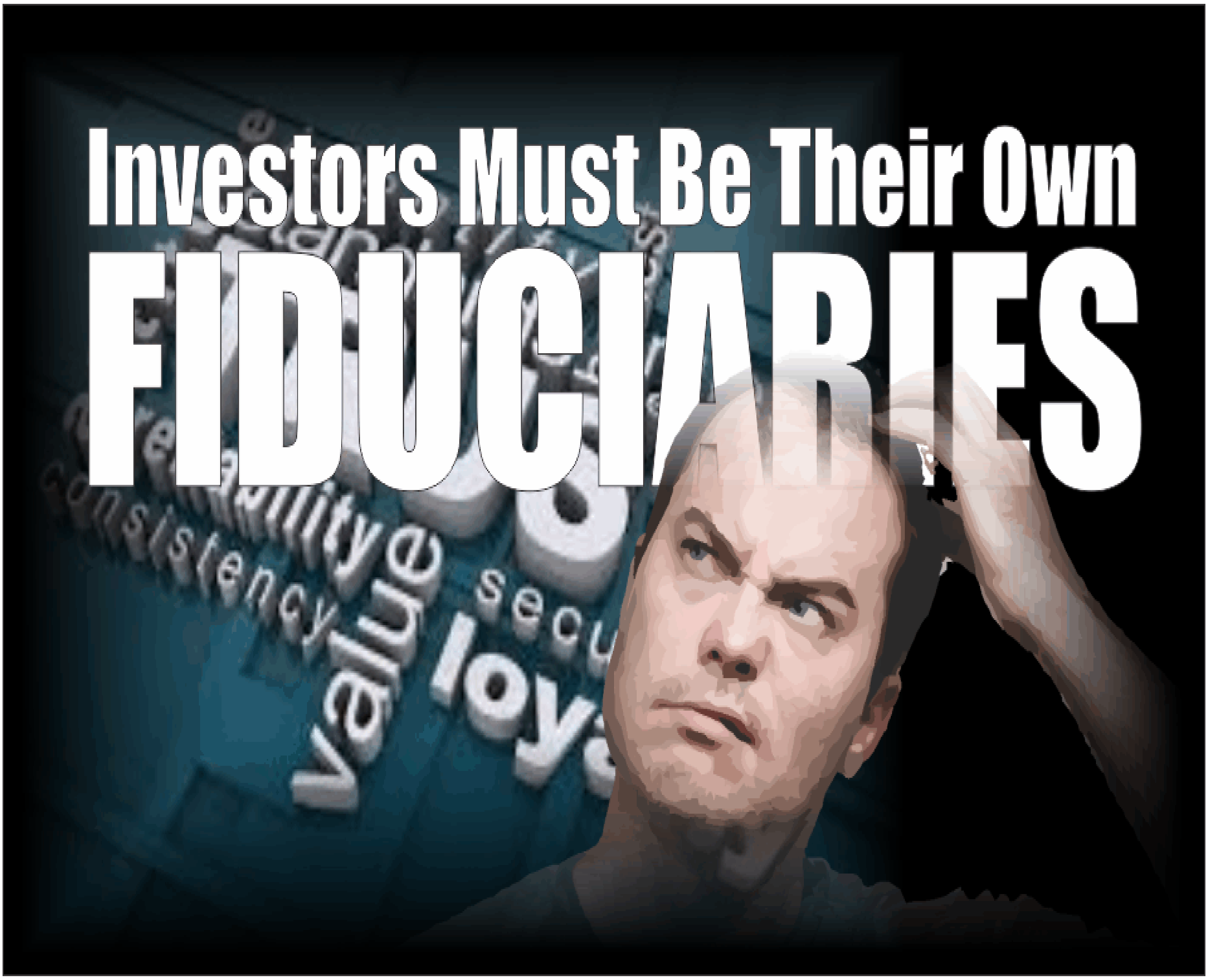
RIA Advice



The latest confusion front-and-center in financial industry news is how the SEC is seeking to define how the brokerage business should consider clients? interests first. The latest attempt to create an *?advice rule?* by the SEC *(Release No. 34-83062; File No. S7-07-18)*, is a 900+ page alt-fiduciary universe. This best interest of clients/brokerage combo doesn?t mix easy. It clashes. The ethos of brokerage is to sell products. A fiduciary standard and the brokerage industry get along like the silver balls and bumpers in a pinball machine. What the SEC?s *?Advice Rule,?* or a *?Regulation Best Interest,? (you can?t make this stuff up,)* may do is confuse consumers more than ever. For the life of me, I can?t split the hare?s hair to decipher the difference between a Registered Investment **Adviser?s** fiduciary role vs. a broker-dealer?s *?Best Interest?* standard. I don?t see any changes to the dog; the SEC just added another flea to it. At the end of all this is a proposed 4-page handout for customers or a *?Disclosure Form CRS,?* that every brokerage financial representative or Registered Investment Adviser would be obligated to provide clients and prospects. There are 8 sections to the disclosure that appear to read like an investor ?how-to? or educational guide to brokerage and/or investment advisory services, fees and costs, conflicts of interest and account types. Surprisingly, the disclosure documentation appears to be decent financial education material if only clients and prospects will study it. Hey, some people require a product solution to fill a need and thus a transactional relationship works and still must exist. Others require ongoing, holistic financial advice that a fiduciary can provide. The disclosure helps consumers better understand the differences. I have no clue what the final SEC rule is going to be. In my albeit na•ve opinion, until the industry guard dogs discourage endless sales quotas and helps retrain front-line representatives to focus on customer best interests over the fear of failure (and possible job loss), to meet senior management initiatives, I don?t expect much change to current operating procedures. I?ve observed and been told by investors *(including family members)*, that several brokerage organizations are ?politely nudging? or downright threatening *(?you won?t be able to work with me if to don?t do this,?)* clients to transfer their assets to accounts under a *?Fiduciary Standard?* which generate fees for the firm and appear to include an immoderate allocation to proprietary products. S**o, clients who weren?t paying ongoing fees previously are now doing so.** They?re also getting sold out of investments they?ve held for years to be positioned into an asset allocation in a box. Financial big-box retailer compliance departments are going to make sure a Fiduciary or Best Interests Rule is primarily followed to protect the firms they serve. Financial retailers are going to make it their business to morph any rule into an incredibly profitable venture for their organizations. I?m glad there?s attention. In some cases, there?s a firestorm around doing what?s highest and best for clients. Even the CFP Board is jumping on the bandwagon. Under a new rule and revised ethics standards that become effective on October 1, 2019, a Certified Financial Planner• mark holder who is employed by a brokerage firm must disclose and manage conflicts of interest and act in a client?s best interest. Listen, this is a big deal. Many CFPs employed by brokerage firms use the marks to gain credibility with prospects and grease the wheels of the selling process. I mean, if a CFP recommends a product it must be in a client?s best interest, correct? Not necessarily. Today, CFP Standards include what I perceive as an ?out-clause? which outlines expected loyalty to an employer. Ostensibly, the CFP marks aren?t attached to any kind of fiduciary responsibility to the client first unless the scope of the engagement is financial planning. The revised CFP Board standard doesn?t appear to be going over well with the broker-dealer industry; I find their discourse encouraging. Don?t be surprised to see less Certified Financial Planners employed by brokerage firms over the next few years. Nor will obtaining the marks be paid for or encouraged by these organizations. Frankly, it?s a proper and very bold move by the CFP Board and it makes me proud to maintain the certification. **Bottom line: Should it be so difficult to do what?s in the best interest of the client and still make a respectable living? Common sense portends that doing right by the client should lead to more clients and increased profits.** Currently, there are multiple bureaucratic hands taking shots at crystalizing or postponing fiduciary or ?fiduciary-like? standard initiatives. On a positive note, at least the discussions continue. Investors must be vocal about what they expect from their financial professionals. They must gain confidence to know what they want, what they expect to foster trust, write it out and share those expectations. **Here are several ways, as an investor, you may forge a path and form a PFS, a *?Personal Fiduciary Standard.?*** The journey starts with asking yourself tough, self-reflective questions that delve into personal motivations, fears which place you in the shoes of an adviser who you hope would connect with you on a higher, perhaps emotional level. Keep in mind, your needs and concerns are fiduciary in nature. Unless, you don?t want the highest and best for you and your family. Highly unlikely. For example, I?ve always followed my own ethical compass when it came to directions I?ve taken for clients and their money. I envisioned ?what would clients ask for from me?? and then wrote down my thoughts. I listen to my gut. After more than two decades in the business, I trust my gut to alert me to ethical boundaries crossed. I made a promise to myself that even if the ethical breach emanated from an employer, I?d still do what I needed to do for clients. Clearly, I was willing to breach the loyalty to a firm over loyalty to a client. I just believed it would never happen. That I?d never need to worry about it. Until I did. I then followed through on my personal promise. You know what I learned? If a broker seeks to take on a fiduciary mentality, his or her career will be in great danger. Here are several questions I ask(ed) myself. I created them after my first experience at a brokerage firm. My first job in finance as a broker. I was sponsored for my industry licenses by an organization named J.T. Moran, after its founder. The company was the inspiration for the 2000 theatrical movie ?*Boiler Room,?* which starred Vin Diesel in his first major film role. Little did I know what I was walking into. An unscrupulous penny-stock peddler. A den of thieves. The questions I created for myself back then still work. They?re as effective now as they ever were. They motivated me to flee from that environment in the late 80s. Literally. I walked in early one work day, threw the stuff off my desk into a waste basket and fled out the back of the Garden City, Long Island facility.

1. *Would I personally own or purchase for people I love the same investment or product I suggest to clients?*
2. *Would I sell an investment an employer suggested I hold for clients?*
3. *Could I represent an employer that expected or allowed every client to own the flavor of the month?*
4. *Will I earn more compensation if I offer a specific product or investment over another? How will it affect my judgment?*

As an investor and consumer, you require insightful questions which define your expectations from a fiduciary or a professional who has your highest and best interest in mind. Just a few examples to kick-start your process. Consider the series of queries the spirit of the knowledge you wish to gain. After all, how in heck do you expect regulatory bodies to define ?highest and best? if you can?t? The industry can?t seem to pin it all down. So, you must as a client or prospective consumer of financial products. I?m sorry, but this falls responsibility falls on all of us who partner with financial professionals to meet our goals.

1. *Is my financial professional paid more for product A over product B. Why?*
2. *Does my financial partner own what is recommended?*
3. *Will he or she liquidate or move me away from an investment that no longer serves our needs due to a material change to that investment or our situation, even if it means giving up income?*

Investors must perceive themselves as ultimately responsible for the growth and safeguarding of their wealth. Empowerment comes from asking financial partners tough questions and trusting your gut to walk if you don?t like the answers received. I?ve outlined crucial questions to ask. ***?Suitability?*** **guides a broker to recommend an investment that is appropriates for your situation, is not held to the same standard.** A broker is required to know your risk tolerance, tax bracket, and time frame for the money you seek to invest. All skeletal in nature. Yet legitimate. Well, it?s suitable. This may be fine for what you require. If there?s a financial product you?re looking to purchase, then suitability is well, suitable for your needs. If there?s something more required like a holistic, ongoing relationship. Think fiduciary over suitability. ***Are you a fiduciary? Yes or no?***

> *The Fiduciary Standard is a high calling. It?s there to position the client front and center in the financial advice model, as it should be for every professional who assists consumers with their financial decisions.*

How much will I/we pay for your services?

> *Simple question deserves a simple answer. Unfortunately, not so simple. People share with me their frustration as they?re unclear how their current financial professionals get paid or are compensated for selling investment products. It?s especially perplexing for mutual fund investors sold multiple share classes and perpetually unclear of how charges are incurred. A clear comprehension of the class share alphabet (A, B, C), is as thick and jumbled as the inside of Campbell?s Soup can. B &C share classes are*

popular selections on the product-push list. They represent the finest alchemy in financial marketing. As consumers are generally hesitant to pay up-front sales loads like in the case of A shares (even though when taking into account all internal fees and expenses, they?re the most cost-effective choice for long-term investors,) B & C shares were created to mollify the behavioral waters. To avoid having a difficult conversation or facing reluctance about opening your wallet and shelling out 1-4% in front-end charges that reduce the principal amount invested, the path of least resistance is to offer share classes with internal fees, marketing charges and deferred sales charges. Either way you pay. With B & C shares generally, you pay more. However, big fees reduce returns, they?re stealth. Thus, they feel less painful to invest in (even though they?re not). A financial professional may be compensated hourly, by annual flat fee, a percentage based on assets under management, commissions or perhaps a combination. Regardless, to make an informed decision, you must understand how your adviser puts food on the table. If you can, get it in writing. There?s no ?right way? to be compensated as long as it?s fair and reasonable for services rendered. You also want to understand what motivates your broker or adviser to recommend investment vehicles.

How do you incorporate my spouse, life partner and children when it comes to planning?

You don?t exist in a vacuum. An adviser should maintain a holistic approach to financial planning and that includes communicating with loved ones and teaching children how to be strong stewards of money. The meetings, communication must be ongoing. At least semi-annually.

Why did you select financial services as a career?

This question should be used to gauge a perspective financial partner?s penchant for helping others and passion for his or her role as a mission, not a job. How do you know whether a professional sincerely cares about your financial situation and goals? You?ll know it, intuitively.

What are your outside interests?

A successful life is about balance. This question gets to the weekend and evening person behind the financial professional you observe from behind a desk, charts, book, and computers. You may discover activities you have in common and develop rapport on a personal level, possibly for decades. To gain a complete picture of the kind of person you?re entrusting with your investments is a crucial element of your interviewing process. By the way, it?s not prying. It?s curiosity. Ostensibly, you should like the individual you and your family may be working with, possibly for decades.

Please tell me about your firm?s service standards.

You want to know how many times a year you?ll be meeting with your financial partner whether in person (preferably), over the phone or web meeting like Go-To-Meeting•. Is it quarterly? Every six months? How would you like to communicate as a client? What are your preferences? Will I be receiving calls and e-mails throughout the year about topics important to your financial situation like the market, economic conditions, financial planning, and fiscal changes that may affect us/me?

What is your personal investment philosophy?

You seek to discover whether an individual is towing the employer?s line or does outside research and shares his or her personal opinion based on independent research and study. In other words, does your prospective partner have a passion for ongoing education and learning?

How do you manage for portfolio and investment risks?

Markets can?t be timed. That?s true. However, risk management is about controlling downside risk which can be devastating compared to possible gains. Your broker or adviser should have a strategy you believe in to guard against market storms. Whether it?s a conservative asset allocation right from the beginning, or a specific sell and re-entry discipline to minimize portfolio damage, a risk-management strategy is crucial. Academics and influential financial service providers are on the band wagon when it comes to sell disciplines. Whether it?s Dalbar, the nation?s leading financial services market research firm, or MIT Professor of Finance Andrew Lo, there?s a growing body of work that shows how investors spend most of their investment life (20-30 years), making up for losses, playing catch up. Losses are inevitable. Significant losses must be avoided.

How often do you review my accounts and investments?

With this question you?re attempting to gain understanding of a financial partner?s workload and number of families served. There?s no ?right? answer. It?s based on how comfortable you feel with the response. Monthly, quarterly schedules are generally acceptable. Weekly, even better. Now, that doesn?t mean changes will be made. The query is about engagement with and monitoring of investment selections.

How do I/we have access to you and your team?

A caring pro will make sure you possess the ability to text, access to a cell phone number, phone contacts and e-mails of support staff and make you feel comfortable to reach out at any time. You should also expect a prompt response to voice mails ? usually within 24 hours or less.

I have no idea when or how all this fiduciary regulatory scramble settles out. **I do know however, that the definition of fiduciary begins with you: The client, the customer, the investor.** Questions will help you to define what you want and subsequently find a financial professional you?re comfortable with. Questions are an integral part of any relationship. You?re not being nosy. You?re seeking information to make an informed decision regarding a topic close to your heart: Financial well-being. No questions asked.

For a PDF copy of these questions along with adequate space to document responses, please click here and download for free, the ***?The BS (Broker Survival) Guide?*** *or any of the several other guides located there to help you as well.*