It's my understanding that the SEC is conducting a study to determine if the fiduciary duty governing investment advisers provides greater investor protection than the suitability standard governing broker-dealers.

I have been a financial services representative since 1990. Before that I was a Naval Officer for 11 years, including 4 years at the US Naval Academy, Annapolis, 4 years at sea, and 3 years in the office of the Secretary of the Navy (Technology Transfer and Security Assistance). Since I am currently both a Registered Investor Advisor Representative and a Registered Representative, and have had prior experience as an enforcer Federal regulations (e.g. Arms Export Control Act) perhaps I can offer a somewhat unique perspective.

When wearing my "registered representative" hat, it is my duty to ensure that my customer gets an APPROPRIATE product for their situation. When wearing my "registered investment advisor" hat, it is my duty to ensure that my customer gets the BEST solution for their situation.

The vast majority of my clientel, which is middle-America / "blue/grey" collar - cannot and will not pay for the fiduciary "best product" standard. If I am not able to serve middle America without charging a separate fee, they simply will NOT be as financially prepared. They will not invest as much. They will not own the right kind and amount of insurance. They will not learn as much about financial planning and financial security. The end result: More people will be dependent on the Government since they in aggregate will not do as much planning on their own as they would with my help.

<u>Forcing a fiduciary duty on registered representatives and on broker dealers will result in the average person getting LESS advice and being LESS well financially prepared.</u>

Perhaps an analogy would be helpful.

Were I to go to an automotive dealership to purchase a car, I would expect the auto dealership to sell me an appropriate car and to provide truthful disclosure about the car. I would not, however, expect the auto dealership to recommend I purchase a car not in the dealer's inventory.

If I were going to hire an automotive expert to review my automobile needs and do an exhaustive analysis of every car available to obtain the optimum vehicle for my needs, I would be paying the expert for the expert's time and expertise, and would buy the car separately.

Let's assume such an analysis would cost $15,000, and look at two consumers:

1) Fred Millionaire has $500,000 to buy a car, and
2) Joe Sixpack has $20,000 to buy a car, and

Fred has the option of spending his $500,000 at the dealership, or spending $15,000 on the analysis and $485,000 on the car. Either way, Fred is happy.

Joe would most likely go to the local dealer, spend his $20,000, and get a good and appropriate car. Joe is happy. If the dealer sells him a lemon, existing laws protect him; more importantly, Joe would tell his friends that he did not get a good value at that dealer, and that dealer would either get better or go out of business.

If the Government required that Joe, before he could buy a car, HAD to spend $15,000 on the expert's analysis, Joe would only have $5,000 to buy a car. Even if he got the “best” $5000 car on the planet, Joe would be unhappy.

Putting a "fiduciary duty" on the automotive industry would thus result in fewer cars being sold which would be a huge drag on the economy.

Similarly, putting a "fiduciary duty" on the financial services industry will put a huge drag on the economy. The rich would still be able to obtain competent advice. The middle-class would not .

As in any industry, compliance costs are passed to the consumer. Adding another layer of regulation means another layer of compliance, and even more cost to clients.

I hold FINRA 7, 63, and 65 registrations, and various state Life, Health, and Variable annuity licenses. Every year I complete extensive continuing education. Every several years I attend FINRA suitability training. I am already acting in the "best interest" of my clients.

The Act does not define what the rules are for compliance with a legal "best interest" standard - thus subjecting registered representatives to the potential of never ending lawsuits. For example, is "best" the cheapest recommended product? Is "best" premium relative to the benefit of the product? Is “best” the product with the "best" historic underwriting and service standards? Is “best” the product from the carrier with the "best" rating?

A fiduciary standard would add a vague legal liability standard that looks back (sometimes after many years) and is enforced after the fact by the SEC or trial lawyers who have perfect vision in hindsight.

In summary:

1) Requiring me to provide a fiduciary duty will increase my costs and decrease my ability to serve my clients.
2) Moving to a fee-only model <u>may</u> result in better, unbiased advice – but more importantly it <u>will</u> result in LESS good advice and fewer dollars invested and less prepared citizens.
3) The vast majority of my clients cannot afford to pay upfront fees nor would they be willing to.

We have sufficient regulation. If regulation were able to cause ethical behavior, there would be no unethical behavior in the financial services industry! Please do not impose a misguided fiduciary standard on my clients. Thank you!