SEC Headquarters
100 F Street, NE
Washington, DC 20549
(202) 942-8088

Re: 30-day public comment period on imposing fiduciary standard on broker-dealers and their representatives.

8/3/2010

Dear Commissioners:

While financial services regulation is a hot topic, another of the country's biggest concerns currently is the how the affordability of healthcare affects access to services. Healthcare's current challenges are an effective example of the consequences of imposing fiduciary standards on every financial services transaction, namely high costs that limit affordability and accessibility to professional financial advice. As I understand it, two elements blamed for the high costs of health-care are: (1) excessive diagnostic testing and (2) high mal-practice insurance costs for providers. These same elements would create barriers to access to affordable financial advice for main street Americans.

Due to the legislation that followed the crash of 1930, I have two ways I can currently serve clients:

(1) -Help them select a suitable product based on their age, net worth, and financial product experience (among others things). Under this scenario, I am limited to offering products licensed with the state insurance departments (or eventually with the new Office of Insurance) and securities registered with the SEC. I perform this activity as an insurance agent and/or registered representative. The client pays me nothing directly for my advice as my compensation is paid by the issuer, which is regulated by one of the aforementioned regulatory bodies or SROs. I could refer to this activity as "first aid." I could refer to the products as "over-the-counter."

(2) -In the event that a client's financial resources and number of financial goals are complex, I can propose that they engage me as an Investment Advisor (fiduciary) to analyze their current actions in relationship to their financial goals and/or to provide investment advice on a fee basis. Depending on how the definition of fiduciary standard develops, I will spend more or fewer billable (to the client) hours examining various options that the client can use to accomplish their goals. I could compare this activity to "diagnostic tests and clinic." At the end of the engagement, the client can request the assistance of anyone they choose to implement the conceptual strategies I've recommended. Many times, they will request my assistance, in which case I change hats and return to option 1. In other cases, they seek the assistance of another insurance agent or registered rep.

Examining the various conceptual approaches to solving client challenges and vulnerabilities is one thing. Applying a fiduciary standard of care to specific product selection is a different challenge. Doing so will simply lead to increased costs to the consumer in the following ways:

(1) -In order to protect themselves against scrutiny as to the manufacturer, product type, and design (funding, riders, etc.) recommended, financial professionals will be required to spend much more time per transaction researching the universe of available financial products (previously referred to as excessive diagnostic testing). Unlike the healthcare industry, however, it is much easier for a consumer to compare costs of financial products due to publication and disclosure of risks and expenses as required by the legislation already in effect. This, by the way, promotes competition between the issuers.

(2) -Because of the increased risk of law suits, errors and omissions insurance premiums (compare this to the current medical mal-practice insurance premiums affecting the health-care industry).

These increased costs of doing business will either be passed on the consumer, limiting access by affordability, or cause current providers to cease to do business, lowering supply of providers and consequently increasing cost, or both.

I wonder what problem(s) the proposed application of fiduciary standard for the solicitation of registered and licensed financial products are intended to solve. The SEC and insurance commissioners ought to have a good feel for the number of consumer complaints related to these transactions. Is the system that regulates the products to which I have referred broken? It seems to me that the public outcry is as a result of so-called “shadow industries” that somehow skirted regulation by the acts of the late 1930s and early 1940s, not the financial products that are so diligently regulated by those acts currently.

In conclusion, the application of a fiduciary standard to financial products that are already regulated will result in a decrease in access to financial advice because of increased costs that will ultimately be passed to the consumer and a decreased supply of providers.

If I can be of further assistance on this matter, I welcome your correspondence.

Brian Urie

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