Fiduciary Briefing

October 2016 Edition

Register NOW for Oct. 19 Fiduciary Chat.

The Wednesday, Oct. 19 Fiduciary Chat starts at Noon CT and features:

- Sneak peek into the main components of a Best Interests Contract
- Five steps credit unions can take to prepare for rule implementation
- LIVE answers to your latest questions

Register now for this free online event and submit your questions in advance.

DOL Fiduciary Rule Lawsuits Update.

Thrivent Financial for Lutherans became the sixth group since June to file suit against the Department of Labor (DOL) over the fiduciary rule. Thrivent's suit, filed Sept. 29, in the U.S. District Court for Minnesota, targets the rule's Best Interest Contract and its provision that service disputes be handled by class action lawsuit rather "alternative dispute resolution methods" that Thrivent believes are integral to its business model.

In other updates, oral arguments have been conducted in both the suit brought by the National Association for Fixed Annuities in the U.S. District Court for the District of Columbia in Washington, D.C., and in the suit brought by the Market Synergy Group—a consortium of 11 independent marketing organizations−in the U.S. District Court for Kansas.

These suits are both requesting temporary injunctions against implementation of the rule. It is anticipated that the judge in the D.C. will rule on an injunction first, followed by the courts in Texas (where multiple suits have been filed) and Kansas.

Industry Trends: Advisor Compensation.

The DOL Fiduciary Rule requires that advisor compensation for investment products such as variable and indexed annuities be "reasonable." Yet the rule does not prescribe what reasonable compensation is. That is proving to be a balancing act for both product manufacturers and broker/dealers.

For manufacturers, committing to a certain set price or pricing philosophy allows the marketplace to potentially price lower to "sell against" that manufacturer, putting them at a disadvantage. For broker /dealers, pricing higher could have the same effect, drawing unwanted attention and allowing other broker/dealers to price under them, in effect setting the reasonable standard below what the original broker/dealer is paying. On the other hand, pricing too low could lead to advisors leaving for higher-paying competitors.

"From CBSI's perspective, our advisors know we will look to be fair to them and offer a competitive compensation schedule and pricing," says **Kevin Thompson**, President, CUNA Brokerage Services, Inc. "Our goal is to get what we do right, not necessarily to be first to make announcements or commitments."

Talking to Members About the DOL Rule.

When talking to your clients and members about the Fiduciary Rule, here are some suggestions for points to make:

- The rule was created because the financial landscape has experienced continuous change over the decades, with more and more individuals taking on responsibility for their own retirement planning.
- The rule represents the first major update to the rules surrounding financial advice standards since the 1970s.
- The rule requires that I become a fiduciary for tax-qualified investment advice and recommendations, disclose any conflicts of interest I have and how those conflicts are mitigated, and any advice I provide you is required to be in your best interest, a legal term that means advice must be impartial and without regard to my financial interests.
- After April 10, 2017, my existing clients with tax qualified investments will be given the appropriate documentation and disclosures if/when we make any account changes for them. All existing clients will receive required documentation and disclosures in the fall of 2017 prior to full implementation of the rule on Jan. 1, 2018.
- New clients in 2017 will receive the appropriate documentation and disclosures when they open their account. After Jan. 1, 2018, new clients will also have an additional document to sign, a Best Interest Contract, when opening an account.
- This new rule provides for some changes in how I will work with you and the service I provide you. But it also brings a strengthening of our financial advisory relationship through coupling greater protection with financial advice expressly in your best interest.

Department of Labor Rules: Fiduciary vs. Wages and Hours.

The Department of Labor has released two major new rules in 2016 that directly impact financial services programs and credit unions: the Fiduciary Rule and the Wages & Hours Rule. Here is a brief overview:

Fiduciary Rule:

- **Affects Who:** Those who provide compensated and/or conflicted recommendations regarding tax-qualified investment products and services.
- **Requires:** Advisors held to fiduciary standards for tax-qualified investment advice; advisor compensation is "reasonable"; compensated advice requires use of Best Interest Contract Exemption, additional documentation and disclosures to clients.
- **Implementation:** Fiduciary standard April 10, 2017. Best Interest Contract and all additional disclosures/requirements, Jan. 1, 2018.

Wages & Hours Rule:

- **Affects Who:** All employees, including those with the credit union and the financial services program.
- **Requires:** Increases the salary level at which a full-time employee is considered exempt from overtime to $47,476 per year.
- **Implementation:** Dec. 1, 2016.

Discovery Virtual Conference Features DOL Hot Topic.

Kevin Thompson will host a hot topic on the Fiduciary Rule on the Tuesday, Oct. 18, Discovery Conference for credit union leaders. Participants of this no-cost virtual conference can access insights on the latest industry trends, participate in live chats, and network with peers. Space is limited so register now.

The Importance of Cybersecurity.

A February 2015 survey by the National Association of Federal Credit Unions found, on average, credit unions spent $136,000 on data security measures and $226,000 in costs associated with merchant data breaches in 2014. Imagine the costs that will be incurred if member data in your possession (files, computer, etc.) ever became compromised because it wasn't protected.

CBSI is piloting a program with several credit union programs to monitor and report the encryption software, anti-virus software, browser version and operating system on computers used for wealth management. This will allow CBSI to identify any computer that is not meeting protection technology standards, and assist programs with bringing their device security up-to-date. Watch for more information, and direct questions to your **Supervising Principal** or the **CBSI Compliance Department** at 800.356.2644, Ext. 483.1927.

New CBSI Whitepaper Available.

The next few decades promise to bring a significant wealth transfer from one generation to the next. Yet research shows much of that wealth will exit the current wealth management practice and financial institution it resides at. Learn more about building multi-generational relations with CBSI's latest whitepaper, "Multi-generational Membership: How a Financial Services Program Can Help Retain Assets When a Member Passes Away."

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