

# Fiduciary Briefing

December 2016 Edition

## Chat Recording.

The recording of the CUNA Brokerage Services, Inc. (CBSI) [Dec. 15 Fiduciary Chat webcast](#) is available. It features a look at industry news, CBSI news, as well as a review of five things credit unions can be doing to prepare for the fiduciary rule and a Q&A session. The recording lasts approximately 60 minutes.

Our next Fiduciary Chat will be Wednesday, Feb 1 at noon CT. Registration information will be available soon.

We also introduced during the chat that we had a survey regarding communications we would like you to complete. It takes just two minutes to tell us how CUNA Brokerage is doing to help you stay informed about the Fiduciary Rule. Thank you for completing this [short survey](#).

## Fiduciary Rule's Future.

Post the 2016 election, is a revised fiduciary rule a possibility? During the initial rulemaking process, the investment industry expressed support for a workable, thoughtful fiduciary rule. Any rewrite of the current fiduciary rule is likely to retain the fiduciary standard element of the current rule. At the same time, a revised rule could still be narrowly tailored to permit commissions and other aspects of the business as they are permitted today.

Until we have facts and concrete information about the incoming administration's plans, we will be proceeding full-speed ahead on our fiduciary rule compliance and implementation efforts. We will be closely monitoring the transition process between the Obama and Trump administrations and will of course keep our advisors and programs fully informed regarding the fiduciary rule, as well as any other important regulatory or policy developments that affect our business.

## Rule Legal Challenge Update.

Since the Fiduciary Rule was released in its final form, a number of legal challenges have been filed in courts across the country. The challenges, filed by trade associations such as the American Council of Life Insurers (ACLI) and U.S. Chamber of Commerce, are in various stages. CUNA Mutual is a member of both organizations.

One challenge, *NAFA v. Thomas Perez, et al.* was heard over the summer. In that case, the National Association for Fixed Annuities (NAFA) sought a preliminary injunction to stay, or delay, the DOL rule. In an opinion released in November by the U.S. District Court for the District of Columbia in Washington, D.C., the rule was upheld and NAFA has since announced plans to appeal the decision. Also in November, a similar result occurred in the U.S. District Court for the District of Kansas when the judge denied the plaintiff's (Market Synergy Group) motion for injunctive relief. In another suit, brought by such groups as ACLI and the U.S. Chamber of Commerce, in the U.S. District Court for the Northern District of Texas, oral arguments were heard this November. A decision is expected in early 2017.

Based on reports from the representatives and advisers to the new administration, the government could choose to stop defending these suits and look to this method to delay rule implementation while the case or cases play out in the courts.

## **CBSI Continues Compliance Preparation Efforts.**

Preparation continues at strong pace for CUNA Brokerage Services fiduciary rule compliance efforts. Recent updates to workteam efforts include:

- Commitment to Salesforce as our CRM choice as a single repository for recommendation rationales to protect both the company and advisors.
- Investigating and analyzing a variety of tools in order to document the Best Interest Standard. Based on our vetting process, we will be requiring MoneyGuidePro as our formal financial planning tool to support the sales process. This does not preclude manufacturers from creating, and advisors from using, more modular analysis tools-that we would vet from a fiduciary rule perspective-as complements to the approved tool. We are looking at a separate rollover recommendation tool as well.
- We expect to have a new, DOL ready approved product list available soon.
- Training dates and delivery channels are under rapid development and advisors/programs will be informed about the choices and options soon.

## **New Rule Resources.**

CBSI supports ongoing education and resource development to bring advisors, programs and credit unions the latest information and insights regarding the DOL fiduciary rule and its implications. Now available to assist you is a [member-facing talking points](#) document that can be shared with your credit union leadership and staff to help respond to member inquiries, as well as guide advisor conversations with clients. These talking points are a companion to the printable [member-facing information sheet](#) currently available to advisors through [MarketingPort](#).

## **Thought Leadership: Risk White Paper.**

Traditional retirement planning uses diversification to mitigate risk, but it can't guarantee protection from loss. A new white paper published by MEMBERS® Insurance & Investments demonstrates how risk control accounts move beyond Modern Portfolio Theory (MPT) to offer new ways to protect against loss while still delivering growth potential.

This "value of risk control" will be an important consideration of investment advice in the fiduciary rule environment as advisors will be looking to closely identify and provide advice that meets a client's specific needs and best interests.

["The Value of Risk Control in Retirement Planning,"](#) written by CUNA Mutual Group's Vice President of Wealth Management, **David Hanzlik**, FSA, MAAA, provides an in-depth look at how risk control accounts decrease the standard deviation (risk) of a portfolio and combat some of the biggest risks of investing.

Risk control accounts, the paper concludes, are most effective at reducing one of the biggest risks of all: human nature. Guaranteed loss protection helps investors ride out market volatility and stay invested during uncertain times.

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