# Nothing To Lose, Everything To Gain

I never have as much time to read as I'd like, so I've learned to build time into my morning routine to sit down and read more. One morning a couple of weeks ago, I made time to catch up on the new ruling from the Department of Labor. The DOL requires that certain financial services professionals who previously were held only to a suitability standard of care for their clients, now be held to a fiduciary standard.

Folks, more than a year ago I wrote in this column about pending legislation regarding this potential change. So let's start with a quick recap of the two standards. The first is what is called the suitability standard, which is common within the brokerage industry. This standard requires only that a broker or advisor offer advice that is suitable to his or her client's situation, advice which may or may not be what is also best for the client. By being held only to a suitability standard, an advisor can possibly charge excessive fees, favor investments that offer high commissions and recommend securities that can be difficult for investors to sell.

Hmm, think about that for a moment.

The second standard, applicable to some in the financial industry, is the fiduciary standard. This is a much higher standard of care. It requires an advisor to always put the client's best interests first, no matter the fees or commissions associated with them as they pertain to the advisor.

Now, let's think about that for a moment.

The new rule has been in the works for six years. It imposes the fiduciary standard on all advisors who are getting paid to provide investment guidance on retirement accounts (401(k)s, IRAs, Roth IRAs, Simple IRAs, SEP IRAs, etc). All such advisors must act solely in the best interests of their clients. April 2016 was a huge step forward as the Department of Labor released final regulations pertaining to this change.

Folks, my team spends our days in the trenches of this industry. We work from the fiduciary standard for all our clients, but unfortunately, have seen many situations where folks have been given advice that is just, well, suitable. They have strategies that do not live up to what we would consider the standards of a fiduciary. Frankly, we get a bit heated over this.

A recent study by the Council of Economic Advisers (CEA) estimates that the "suitability" standard can cost investors excessive fees. In fact, a White House memo from February 2015 argues that investors lose as much as $17 billion annually in retirement dollars because they are given advice that may not be in their best interest, but that is, well, suitable. The report dives further into some of those fees, fees that are not so transparent, such as loads (commissions), and 12b-1 fees (marketing dollars paid back to the selling institution). The report tells us that the returns for domestic equity and bond mutual funds sold through intermediaries, such as brokers, were 0.9 percent lower than equivalent funds sold directly to retail investors, estimating a cost to consumers to be in the range of more than $4.5 billion.

With the announcements last week, we will begin seeing changes as early as next April with full implementation in January of 2018. This is happening. Slowly, and a long time coming, but it is happening. So what do these changes mean for you?

Investors who now pay commissions when they buy stocks or bonds within a retirement account will likely find those accounts switching to a fee-based model, with brokers earning their keep from a percentage of the assets invested. This fee, which will likely hover around 1 percent, will discourage advisors from recommending products because they benefit the advisor, as they will receive compensation based on account size, not what products they select. This matches the current fiduciary model, where an advisor's success is dependent upon their clients' success. Isn't it nice to create a platform where your advisor is playing on your team and not the team of his or her's brokerage house? Yup, I think so!

We will likely see a shift away from some popular investment vehicles, many of which I've warned you about in the past, such as variable annuities. Investors will likely encounter fewer fees when moving their money. For example, if someone moves funds from his or her 401(k) to an IRA, a broker now has to accomplish this with fees that are considered reasonable.

Like I mentioned above, the fee-based model allows advisors to get paid on the size of the accounts. So unfortunately, with this change, small investors with modest IRAs may face the possibility of getting dropped because some advisors may not want to deal with the regulatory hassles for what they consider small fees. This could pose a problem.

Many within the financial industry are already planning to challenge the legislation. In fact, over the six-year journey, many financial industry associations have been fighting tooth and nail with the Department of Labor and Congress to either destroy the regulation changes entirely, and then (as the changes seemed inevitable) lobby to make the changes more lenient. There's a chance we could see this issue hit the Supreme Court at some point in the future.

Regardless of the eventual outcome, it's important for you to understand the current laws regarding your financial advisor's practices, and the future implications of those laws. Folks, I am likely to catch a lot of flak for this column from the mainstream financial industry, but I am OK with that. Let me ask you: Shouldn't everyone work as a fiduciary in your best interest?

Be vigilant and stay alert, because you deserve more.

***About the author:*** *Scott Moore is the founder of Moore's Wealth Management and has decades of experience in finance and investment banking.*