

Comparison of Authentic and “SIFMA” Fiduciary Standards

Authentic	SIFMA*	Comments+
“Prudence” is required	“Good professional judgment”	“Prudence” carries a legal duty that “professional judgment” does not. SIFMA makes no mention of “prudence” in its testimony.
Do not mislead; disclose all material facts (compensation, fees, expenses) in writing	Does not address in testimony.	Carroll would not say SIFMA believes disclosure of fees is required; he suggests brokers’ “business model” may permit Brokers to <i>not</i> disclose compensation, fees, expenses, etc.
Control investment expenses	Does not address in testimony.	Carroll would not say SIFMA believes brokers must control investment expenses; he does say all businesses try to control business expenses, generally.
Avoid conflicts, or disclose conflicts <i>and always</i> attain fully informed consent	Avoid conflicts, or disclose conflicts, <i>only sometimes</i> w/ client consent.	SIFMA suggests “consent” is only <i>sometimes</i> required. It does <i>not</i> say fully informed client consent is always required.
Managing conflicts in client’s interest	Does not require managing the conflict, except to disclose it, per testimony.	Fully informed client consent means a client understands costs, risks, and benefits of conflict, as well as available alternatives
Recognizes best execution in 40 Act As a fiduciary principle	Rebrands fair dealing obligations, suitability, limited disclosures, supervision and training as “core fiduciary principles.”	Managing the conflict in the client’s interest is fundamental to duty of loyalty

* SIFMA position based on October 6 testimony.

+ Comments based on comparison of testimony with authentic standard and additional remarks by Kevin Carroll, SIFMA Managing Director, in October 7 Webinar.