Overwhelming Broker Opposition to Fiduciary Standard Expressed In Sample of SEC Comment Letters Reviewed

Reasons for Opposition Raise Question: Do These Brokers Understand What Fiduciary Status Requires?

Where's the Burden?

Washington DC – August 17, 2010 – The Committee for the Fiduciary Standard today released a review of a sample of comment letters addressing the study of broker and adviser regulation. The review (attached) was completed over the weekend on 98 letters received by the SEC on August 11 and 12.

The review revealed that 93 of the 98 letters were from brokers; all 93 of these letters expressed opposition to the fiduciary standard. Three reasons were reiterated in many of the letters. Writers claimed that registered reps were already burdened with excessive regulation, and that additional regulation will increase costs that will cause brokers to not service smaller customers and / or leave the industry.

A Fundamental Misunderstanding

The Committee for the Fiduciary Standard noted in a statement:

"The best of these letters are very passionate. However, it seems they reflect a fundamental misunderstanding of the differences between the suitability and the fiduciary standard, and what exactly the fiduciary standard requires. Many wrongly appeared to assume that commissions would be disallowed. And, most wrongly suggest that meeting fiduciary requirements would add additional burdens similar to the burdens they have now. Nothing could be further from the truth…

Where's the Burden?

The Committee Statement continues:

- "What is burdensome about applying professional judgment and recommending products that are in a client's best interests?

- "Why is avoiding, or disclosing and managing, conflicts – and simply describing all the incentives, compensation and expenses before a transaction such a burden?
- What is burdensome about ensuring that expenses are fair and reasonable?

So, the Committee asks, 'Where's the burden'?"

The Silent Majority

These fiduciary duties (which are not required of the suitability standard) are met by the vast majority of brokers today who already put clients' best interests first. These fiduciary requirements are supported by the majority of brokers surveyed in the SEI / Committee for the Fiduciary Standard Survey of December 2009, and June 2010 Envestnet Fiduciary Standard Study *.

"The views expressed in this tiny number of comment letters dramatically contradict the views expressed by the majority (often the silent majority) of brokers who, are eager to learn what fiduciary status requires and whose first comment is often: 'Just tell me what to do.'

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The Committee for the Fiduciary Standard was formed last year to advocate for the authentic fiduciary standard, as presently established under the Investment Advisers Act of 1940. The Committee's Steering group members are recognized leaders in the investment profession:

- Blaine Aikin, fi360
- Gene Diederich, Moneta Group
- Harold Evensky, Evensky & Katz
- Sheryl Garrett, Garrett Planning Network
- Roger C. Gibson, Gibson Capital, LLC
- Matthew D. Hutcheson, Independent Pension Fiduciary
- Gregory W. Kasten, Unified Trust Company
- Maria Elena Lagomasino, GenSpring Family Offices
- Kate McBride, Wealth Manager
- Jim Patrick, Envestnet
- Ronald W. Roge, R. W. Roge & Company
- Knut A. Rostad, Rembert Pendleton Jackson

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* Here are links to the two studies:

http://www.thefiduciarystandard.org/documents/ANFiduciaryStandardreport120209.pdf

http://www.thefiduciaryopportunity.com

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