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Can't Unshine the Light on Fiduciary: Investors Must Protect Themselves

A recent article in the Wall Street Journal proclaims "the Fiduciary Rule is dead." This statement is true in a technical sense, as a U.S. circuit struck down the Department of Labor's fiduciary rule and the DOL chose not to appeal. However, the DOL's attention to the Fiduciary Rule shined a light into the dark corner of advisor practices that cannot be unshone. Absence of a law does not stop investors from voting with their money and moving it to advisors and institutions willing to provide a fiduciary level of service.

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New Laws Are Not Needed – Investors Have Been Empowered

As Vanguard founder John Bogle said in a New York Times op-ed:

> *"The fiduciary rule may fade away, but the fiduciary principle is eternal. The arc of investing is long, but it bends toward fiduciary duty."*

The DOL's efforts on the fiduciary rule ensure that many more investors now know the difference between suitability and fiduciary advice. Law or not, many more investors now know to protect themselves.

Tim Chen, CEO of NerdWallet, recommends investors ask two key questions about how their advisor is paid.

1. How are you paid – fee based or commission based?
2. Do you receive any type of compensation in addition to the fees I'm paying you?

Trustworthy advisors should answer these questions willingly and easily.

When given the power to choose between firms offering advice that adheres to the suitability standard vs. the fiduciary standard, we think it's logical to assume the fiduciary standard wins the large majority of the time. Why would clients knowingly choose advice that may not be in their best interests. As long as investors can demand this higher level of service, we think they probably will. Accordingly, expectations for a fiduciary standard are here to stay.

Fiduciary Rule Provides Better Standards for Advice

Investors should be able to trust that advisors aren't giving them conflicted or incomplete investment advice. Without a fiduciary level of service, investment advice is likely to be:

1. **Incomplete** – doesn't take into account all information (especially from the footnotes and MD&A)
2. **Conflicted** – sell-side research is often conflicted

On the other hand, with a fiduciary level of service, clients receive investment advice they can trust to be:

1. **Comprehensive** – considers all relevant data about the client and all publicly available data on investments
2. **Objective** – unbiased advice using unbiased research
3. **Transparent** – clients can see all aspects of the investment process, including the analysis performed and the data behind it.
4. **Relevant** – investments have a clear connection to the client's financial goals and the research behind advice has a tangible, quantifiable connection to stock or fund performance.

Can anyone really argue that clients aren't better off receiving advice that meets these criteria? Certainly, most investors believe they deserve this level of care from their advisor, and many probably assume their advisors are already required to meet criteria as high as the ones above.

Investors can demand a fiduciary standard of loyalty and care from advisors that meets the criteria above. By providing a fiduciary relationship, advisors can reduce uncertainty, create greater trust, and keep/grow assets under management.

SEC's "Regulation Best Interest" Isn't Enough

The DOL was not the only group looking to implement a version of the fiduciary rule for financial advice. The SEC proposed "Regulation Best Interest", which was open for public comment until early August and received more than 4,200 comments. We've outlined what we believe the SEC should include in its rule in our article "Open Letter to the SEC: Markets Need a Unified Fiduciary Standard."

Even if this proposed regulation is passed, investors must still look out for themselves.

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Disclosure: David Trainer, Kyle Guske II, and Sam McBride receive no compensation to write about any specific stock, sector, style, or theme.

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To fulfill the Duty of Care, research should be:

1. **Comprehensive** - All relevant publicly-available (e.g. 10-Ks and 10-Qs) information has been diligently reviewed, including footnotes and the management discussion & analysis (MD&A).
2. **Un-conflicted** - Clients deserve unbiased research.
3. **Transparent** - Advisors should be able to show how the analysis was performed and the data behind it.
4. **Relevant** - Empirical evidence must provide tangible, quantifiable correlation to stock, ETF or mutual fund performance.

Value Investing 2.0: Diligence Matters: Technology is Key to Value Investing With Scale

Accounting data is only the beginning of fundamental research. It must be translated into economic earnings to truly understand profitability and valuation. This translation requires deep analysis of footnotes and the MD&A, a process that our robo-analyst technology empowers us to perform for thousands of stocks, ETFs and mutual funds.

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