LAWSON KROEKER
INVESTMENT MANAGEMENT

As We See It

> *Many forms of conduct permissible in a workaday world for those acting at arm's length are forbidden to those bound by fiduciary ties. A trustee is held to something stricter than the morals of the marketplace. Not honesty alone but the punctilio of an honor the most sensitive is then the standard of behavior.*
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> – Judge Benjamin Cardozo's opinion in the Meinhard v. Salmon case, rendered in 1928

On April 6, 2016, the Department of Labor (DOL) finalized a fiduciary rule which has been years in the making. You may have seen provocative headlines such as: *New Fiduciary Rule for Financial Advisors Prohibit Conflicts of Interest, DOL Rule Forces Financial Advisors to Do What's Best for Clients, and Investment Advice Just Got a Lot Safer.* Webster's dictionary defines fiduciary as one often in a position of authority who obligates himself to act on behalf of another and assumes a duty to act in good faith with care, candor, and loyalty in fulfilling the obligation. *Which is all good and fine, but what does the change mean for investors?*

We believe the DOL fiduciary rule gets to the core issue for investors: trust. Trust remains one of the predominant reasons investors choose their advisor. There are many smart, engaged, and honest advisors; however, a small fraction make headlines for the wrong reasons. Thus, the DOL rule seeks to tighten the definition of an advisor's fiduciary standard, which will increase the responsibility of advisors to act in the best interest of the client. This change in advisor responsibility is likely going to force some in the industry to change compensation, workflow, processes, and advice practices—changes the brokerage and insurance groups are busy lobbying to stop.

There has been much debate about whether all investment advice should be held to a fiduciary standard, which has only historically been required of Registered Investment Advisors and company-sponsored retirement plans. Presently, brokers, non-registered financial advisors, and sellers of investment product operate under the *suitability* standard which is less demanding in its responsibilities to clients. Suitability means products can be offered that are not necessarily in investors best interest as long as the product meets the investor's overall objectives.

The Securities and Exchange Commission (SEC), which has supervision of the industry as a whole, has procrastinated for years on extending the fiduciary obligation to the remaining financial advisors. This delay by the SEC caused the President to step in and through the DOL use the existing ERISA law to expand the fiduciary obligation from company retirement plans to all retirement plans (IRAs, etc.). Ideally, an SEC action would extend this obligation to all investment accounts.

While no government regulation is perfect, the new rule seems to be progress for investors. This rule will stifle high-commission sales practices and make it more difficult for the unscrupulous advisors to prey upon uninformed investors. Eventually, we expect the SEC to act on this issue, but for the time being, the DOL ruling is the law of the land.

When Lawson Kroeker was founded thirty years ago, we chose to become a Registered Investment Advisor. We did not have to choose to operate at this highest standard of care, but we did because it aligned with the vision of the firm we wanted to build. Our clients' best interest will always be our priority.

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