DOL Rule Limbo Creates Two Camps of FA Firms

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The uncertainty about the fate of the **Department of Labor**'s fiduciary rule is causing a split in how advice firms are shaping their businesses, **Kapin Vora** and **Matthew Berkowitz** write on The Hill.

It's still unclear what President-elect **Donald Trump**'s administration will do with the rule, which requires retirement brokers to put clients' interests first, according to Vora, head of North America wealth management at financial services consultancy **Capco**, and Berkowitz, managing principal in wealth and investment management at Capco. That means the advice industry must prepare for a variety of scenarios, they write.

A delay is probable but would cause more uncertainty while a repeal and replacement of the rule would require far more work since **Senate** Democrats would almost certainly fight it, according to the authors.

Opting for letting the fight over the rule play out in the courts without any interference from the administration would be cost-effective, they write, but will nonetheless lead to more uncertainty or erratic implementation across the industry.

But advice-industry players are already pursuing different paths, according to the authors. Most large firms are about 90% done preparing for the rule's implementation date in April and won't change course regardless of delays or a repeal, they write. Merrill Lynch, for example, has opted to stop offering commission-based retirement accounts altogether, while firms such as Wells Fargo and Morgan Stanley decided to keep them by adopting the fiduciary rule's best interest contact exemption provision, which allows brokers to collect commissions on some products after signing a contract with their clients.

Smaller firms, on the other hand, have chosen to wait and see what happens to the rule, according to Vora and Berkowitz. And no matter the outcome, the winners will likely be diverse firms that offer various services, including access to initial public offerings and alternative investments as well as financial planning, they write.

But the advice industry should just accept that the fiduciary standard isn't going away regardless of what the government does to the DOL rule, **David Trainer**, CEO of financial and regulatory research firm **New Constructs**, writes on his firm's blog.

Advice firms will not be able to go back on the standard without risking their reputations as investors have become increasingly aware of what a fiduciary means for their best interest, he writes. That also means advisors will need to prove that their recommendations are conflict-free — which, according to Trainer, means giving up using most sell-side research. Instead, he writes, advisors need to embrace "truly diligent or value investing" research deemed too time-consuming and pricy up until now.

By Alex Padalka

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