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DOL Must Address Duty of Care in Fiduciary Rule

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To really protect investors, the **Department of Labor**'s fiduciary rule — which requires retirement account advisors to act in their clients' best interest — should better address the duty of care which financial advisors owe to their clients, **David Trainer** writes on Seeking Alpha.

The duty of care a fiduciary owes their clients needs to be commensurate with an appropriate level of skill and diligence. But regulators have been mum on how such a duty of care would be measured and enforced, insists Trainer, CEO of research firm **New Constructs**.

The DOL hasn't covered the topic despite Trainer's request to include it in the most recent FAQ on the rule, which went into partial effect in June. He says the issue is significant. Only about 20% of advisors have the certified financial planner designation, Trainer writes. Requiring all advisors to have a CFP would be tremendously costly and ultimately may not provide investors with enough qualified advisors — presently only about 60% of people who take the CFP exam pass it, according to Trainer.

But the industry shouldn't hope that just because the DOL and the **SEC** haven't addressed fiduciary duty of care that advisors are off the hook, he warns. And despite an 18-month delay of the DOL rule's final compliance deadline, clients are increasingly aware of the fiduciary standard, writes Trainer. That means down the line, advisors who can't demonstrate that they're meeting a sufficient duty of care will shed clients to those who do, he writes.



Instead of making advisors get designations such as the CFP to accredit themselves, Trainer suggests ensuring the research advisors receive lets them meet their duty of care. And to ensure the research rises to the task, it must be comprehensive, objective, transparent and quantifiably relevant to investment performance, he writes.

Technology such as natural language processing and machine learning make it possible to have research that meets these criteria at scale, according to Trainer. But regulators could still step in with some clarity on how to ensure it happens, he writes.

By Alex Padalka

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