



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.

Get the best fundamental research

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.

This article originally published on [September 13, 2018](#).

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

Follow us on [Twitter](#), [Facebook](#), [LinkedIn](#), and [StockTwits](#) for real-time alerts on all our research.



New Constructs® - Research to Fulfill the Fiduciary Duty of Care

Ratings & screeners on 3000 stocks, 450 ETFs and 7000 mutual funds help you make prudent investment decisions.

New Constructs leverages the latest in machine learning to analyze structured and unstructured financial data with unrivaled speed and accuracy. The firm's forensic accounting experts work alongside engineers to develop proprietary NLP libraries and financial models. Our investment ratings are based on the best fundamental data in the business for stocks, ETFs and mutual funds. Clients include many of the top hedge funds, mutual funds and wealth management firms. David Trainer, the firm's CEO, is regularly featured in the media as a thought leader on the fiduciary duty of care, earnings quality, valuation and investment strategy.

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.



DISCLOSURES

New Constructs®, LLC (together with any subsidiaries and/or affiliates, "New Constructs") is an independent organization with no management ties to the companies it covers. None of the members of New Constructs' management team or the management team of any New Constructs' affiliate holds a seat on the Board of Directors of any of the companies New Constructs covers. New Constructs does not perform any investment or merchant banking functions and does not operate a trading desk.

New Constructs' Stock Ownership Policy prevents any of its employees or managers from engaging in Insider Trading and restricts any trading whereby an employee may exploit inside information regarding our stock research. In addition, employees and managers of the company are bound by a code of ethics that restricts them from purchasing or selling a security that they know or should have known was under consideration for inclusion in a New Constructs report nor may they purchase or sell a security for the first 15 days after New Constructs issues a report on that security.

DISCLAIMERS

The information and opinions presented in this report are provided to you for information purposes only and are not to be used or considered as an offer or solicitation of an offer to buy or sell securities or other financial instruments. New Constructs has not taken any steps to ensure that the securities referred to in this report are suitable for any particular investor and nothing in this report constitutes investment, legal, accounting or tax advice. This report includes general information that does not take into account your individual circumstance, financial situation or needs, nor does it represent a personal recommendation to you. The investments or services contained or referred to in this report may not be suitable for you and it is recommended that you consult an independent investment advisor if you are in doubt about any such investments or investment services.

Information and opinions presented in this report have been obtained or derived from sources believed by New Constructs to be reliable, but New Constructs makes no representation as to their accuracy, authority, usefulness, reliability, timeliness or completeness. New Constructs accepts no liability for loss arising from the use of the information presented in this report, and New Constructs makes no warranty as to results that may be obtained from the information presented in this report. Past performance should not be taken as an indication or guarantee of future performance, and no representation or warranty, express or implied, is made regarding future performance. Information and opinions contained in this report reflect a judgment at its original date of publication by New Constructs and are subject to change without notice. New Constructs may have issued, and may in the future issue, other reports that are inconsistent with, and reach different conclusions from, the information presented in this report. Those reports reflect the different assumptions, views and analytical methods of the analysts who prepared them and New Constructs is under no obligation to insure that such other reports are brought to the attention of any recipient of this report.

New Constructs' reports are intended for distribution to its professional and institutional investor customers. Recipients who are not professionals or institutional investor customers of New Constructs should seek the advice of their independent financial advisor prior to making any investment decision or for any necessary explanation of its contents.

This report is not directed to, or intended for distribution to or use by, any person or entity who is a citizen or resident of or located in any locality, state, country or jurisdiction where such distribution, publication, availability or use would be contrary to law or regulation or which would be subject New Constructs to any registration or licensing requirement within such jurisdiction.

This report may provide the addresses of websites. Except to the extent to which the report refers to New Constructs own website material, New Constructs has not reviewed the linked site and takes no responsibility for the content therein. Such address or hyperlink (including addresses or hyperlinks to New Constructs own website material) is provided solely for your convenience and the information and content of the linked site do not in any way form part of this report. Accessing such websites or following such hyperlink through this report shall be at your own risk.

All material in this report is the property of, and under copyright, of New Constructs. None of the contents, nor any copy of it, may be altered in any way, copied, or distributed or transmitted to any other party without the prior express written consent of New Constructs. All trademarks, service marks and logos used in this report are trademarks or service marks or registered trademarks or service marks of New Constructs. Copyright New Constructs, LLC 2003 through the present date. All rights reserved.