InvestmentNews
The Leading News Source for Financial Advisers

Most investors think brokers are fiduciaries, survey says

By Mark Schoeff Jr.

September 15, 2010

More than half of investors are confused about who has fiduciary duty when providing financial advice, while more than 90% want fiduciary rules to apply to brokers and insurance agents, according to a survey released Wednesday.

Fiduciary advocates hope that the results will encourage the Securities and Exchange Commission to establish a universal fiduciary standard of care for retail investors.

Opinion Research Corp./Infogroup found that among 1,319 investors it surveyed Aug. 19-23, by 91% believe that a broker and investment adviser should follow the same investor protection rules, and 96% favor applying those uniform rules to insurance agents as well.

In addition, 97% said that financial professionals should put investor interests ahead of their own and disclose fees and conflicts of interest, the standard to which investment advisers adhere.

More than 60% assume that insurance agents and stockbrokers are already held to a fiduciary duty. Currently, they must meet a suitability standard ensuring that investments meet a client's needs, risk appetite and timeline.

Under the Dodd-Frank financial-reform law, the SEC must submit to Congress by January a study about the differences between investment adviser and broker-dealer oversight, and any existing regulatory gaps. The agency is then authorized to promulgate a standard-of-care rule that covers anyone providing personalized retail investment advice.

Fiduciary advocates said that the investor survey directly answers two questions the SEC study covers: Do investors know that different standards of care exist? Does this difference lead to confusion about the advice they receive?

"This study is probably going to be the seminal study to address those issues," said Denise Voigt Crawford, Texas' securities commissioner and president of the North American Securities Administration Association Inc.

Ms. Crawford also said that the poll provides a chance for the SEC to hear from investors, who she said were overshadowed during the comment period in August when the agency received more than 2,500 responses.

“Many of these comments were the result of industry-funded campaigns designed to jam the SEC’s inboxes and drown out the voices of investors with the same tired rhetoric that was used to influence Congress” during the financial-reform debate, she said.

In addition to Ms. Crawford’s organization, others that sponsored the poll include the Consumer Federation of America, AARP, the Certified Financial Planner Board of Standards Inc., the Investment Adviser Association, the Financial Planning Association and the National Association of Personal Financial Advisors.

The groups assert that the survey findings underscore what they call the misguided nuances in the standard of care that investment advisers and broker dealers must provide.

They contend investors assume that everyone in the advice business is looking out for their best interests rather than trying to sell investment products. That’s partly because broker-dealers have become more advisory in their practices.

“This lack of understanding is not because investors are stupid,” said Barbara Roper, the CFA’s director of investor protection. “It’s because the policy itself is stupid.”

Broker-dealer groups argue that the different standards are necessary to preserve their business model, which revolves around charging commissions for financial transactions. Investment adviser fees are based on a client’s asset level.

In comment letters to the SEC, broker-dealer advocates warned that meeting a fiduciary standard would drive up their costs and potentially price out the market customers who couldn’t afford fee-based advice.

But Robert Glovsky, chairman of the CFP Board, noted that CFP designates must meet a fiduciary standard in running commission businesses.

“It does not require abandoning their brokerage or insurance business models,” Mr. Glovsky said.

Another argument that brokers-dealer and insurance groups made to the SEC is that their constituents are already heavily regulated by the Financial Industry Regulatory Authority Inc. and state commissioners. Adding a fiduciary duty to the mix would cause regulatory overload and increase costs and litigation.

In addition, the National Association of Insurance and Financial Advisors asserted that its 200,000 members follow ethical practices because their businesses are integrated into their communities, where they see clients “at places of worship, the school, the grocery store and as neighbors.”

Fiduciary advocates said that this kind of moral suasion doesn’t substitute for codifying a fiduciary standard to protect investors. Mary Wallace, senior legislative representative at

AARP, said the elderly are especially vulnerable.

“Older people feel the impact [of varying advice standards] more acutely because they have fewer opportunities and less time to recoup losses,” she said.

Fiduciary advocates hope that they can bring the SEC around to their point of view.

“We encourage the SEC to listen to the voice of investors as expressed in this survey and do the right thing,” Ms. Crawford said.