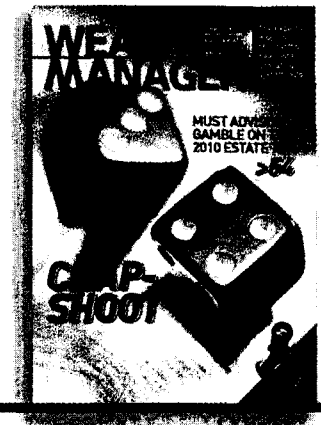


Letters



FOCUS ON FIDUCIARY— FOCUS ON THE POSITIVES

It seems as if there has been a lot of negativity swirling around the concept of “fiduciary” lately, with advisors from many different camps speaking out with great emotion (“Fiduciary Facts,” March 2007, page 12). Some bemoan the fact that a fiduciary standard hasn’t been mandated for all advisors, while others have taken issue with the manner in which advisors and organizations have chosen to address this controversial topic. Everyone is entitled to their opinion, but perhaps we should take a step back and focus on the great strides that have already been made.

Only a few short years ago, this topic wasn’t even on the radar screen. The National Association of Personal Financial Advisors (NAPFA) was leading the charge for a higher standard within the advisory community, but this was largely being done in the fee-only battle that still wages today. Then the Financial Planning Association entered the fray, forcing the SEC into ruling on their long-standing broker/dealer exemption.

When the SEC issued Rule

202, they further clarified when an advisor is subject to a fiduciary standard. While they left a loophole large enough to drive a Mack truck through, it was at least another evolutionary step for our industry. The recent proposed ruling by the CFP Board of Standards, which mandates a fiduciary standard for certificants that are providing financial planning or the material elements of planning, is yet another step in the right direction.

Is the new CFP proposal perfect? I would argue that it isn’t, as any advisor looking to side-step the fiduciary standard still has loopholes that can be used. They can eschew providing planning altogether, or they can have someone else in the office provide planning, and then they can simply do the implementation without being held to the higher standard. In any event, focusing on the positive, some level of progress has still been made. While not revolutionary in nature, it still is evolutionary.

Add to these regulatory changes the fact that we have a major custodian, TD Ameritrade Institutional, that is actively speaking out in favor

of a fiduciary standard. We have a well known consumer finance publication, in their April 2007 edition, running an exposé on the abuses that they witnessed at various brokerage firms when “undercover shopping” for a financial advisor. We have the Focus on Fiduciary campaign from NAPFA, and the Web site www.focusonfiduciary.com that is open to those who feel they can benefit from the materials contained within it. These are all positives in this ongoing debate that hopefully will lead to greater consumer education and protection.

As I look at our industry, I continue to hope that the day is coming when we will be viewed as a true profession. Those of us who hold to a fiduciary standard certainly feel that we are professionals, but the consumer needs to embrace this as well, rather than continuing to fear those who behave as predators. With the positive steps that are taking place, perhaps this day will come sooner rather than later.

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NOTE: As *Wealth Manager* went to press this month, the U.S. Court of Appeals for the District of Columbia Circuit in Washington, D.C. overturned the SEC’s so-called Merrill-Lynch rule—voting two to one in favor of a challenge by the FPA.