

RIAs Can't Skip DOL Compliance Overhaul

By Thomas Coyle January 11, 2017

It doesn't take much expertise to see the Department of Labor's incoming fiduciary rule impacts brokerages more than RIAs. But that doesn't mean RIAs —already fiduciary entities by definition — are in the clear, according to Trust Company of America (TCA).

Centennial, Colo.-based TCA, is a custody and technology provider to 250 firms with more than 7,000 advisors, and has over \$15 billion in custody assets.

For Joshua Pace, TCA's president and chief executive since mid-2015, questions about the DOL rule's fate under a Donald Trump administration — which could be less prone to regulate industries than its predecessor — don't eliminate the need to be ready for it by April 10 this year, as the department stipulated in 2016.

It isn't just that scrapping the rule — a move not specifically on the Trump agenda but an eventual possibility nonetheless — is unlikely to occur before it goes into effect. In Pace's opinion, applying the fiduciary standard to all retirement accounts is an idea that's already seeping into the end-client's consciousness.

Rule or no rule, the CEO tells FA-IQ, the fiduciary "train has already left the station."

Given market-driven moves toward greater transparency in the retail-investment space, and with industry bellwethers like Merrill Lynch and JPMorgan Securities signaling their readiness to ditch all but fee-based retirement accounts, the DOL rule "will be awfully difficult to kill," says Pace.

Although a "slower roll" or "defanged enforcement" might come from a laissez-faire White House, Pace says advice firms "banking on the rule being delayed or watered down might have a problem" — especially if they're betting on that happening in the new president's first 100 days in office.



Joshua Pace, President and CEO, Trust Company of America, says the new fiduciary rule will impact RIA's retirement accounts, too.

In this view, it makes sense to be as compliant with the new rule under Trump as under Barack Obama or any other president.

And this need for DOL-rule readiness isn't just for brokerages.

"Certainly it affects the brokerage side more," says Pace. "But RIAs are by no means unscathed."

Even at firms where the fiduciary standard already applies across the board, the rule calls for differentiation between retirement accounts and taxable accounts.

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And for dually-registered advisors — who conduct RIA-based fee business as well as brokerage-based sales-commission business — the issue is as fraught as it is for pure-play brokers, according to Pace.

In fact, he says, many of TCA's dually-registered — also called "hybrid" — institutional clients are "reevaluating their business models" in light of the DOL rule.

As Pace explains, the hybrid advisors his firm supports are exploring a couple different options.

Some "are looking at leaving their BD entirely and going only fee," because an all-fiduciary practice with no brokerage affiliations would likely avoid at least the topline complication for DOL compliance — whether, and how, to allow for commissions on retirement accounts under specific and demonstrable exceptions.

These firms have their fee business with TCA and their commission business at a broker-dealer. Though now, with the impending DOL rule casting a shadow across brokerage-based retirement accounts, Pace says some hybrids are migrating their entire books to TCA.

Other hybrids are looking to scale back, he says. In this formula, hybrids that are 50% fee-only and 50% commission may be looking at shrinking the commission portion to, say, 20% of the total.

With the DOL rule in view, many RIAs — hybrid or not — "want fewer moving parts, fee harmonization and less delineation between accounts," says Pace.

These firms anticipate compliance headaches if they're charging clients one fee for a retirement account and another for a broadly similar taxable account — even if there's a good reason for doing so.

Pace says TCA's clients are also looking for ways to comply with the DOL rule by knowing their customers better and standardizing the information gathered in that effort.

"If you're really going to act in people's best interests, you might need to know more about them," says Pace.

TCA further urges advisors to "do something with the information," says Pace. That way, the data doesn't just serve to stave off regulators' questions about why investors might be asked different things. It gives advisors more to talk about with clients as a way to tweak financial plans and investment portfolios to demonstrate greater value.

About Trust Company of America

Trust Company of America (TCA) is the only independent RIA custodian offering fully integrated real-time technology, consultative services and back office support exclusively to RIAs. Since 1972, TCA has been a dedicated champion of RIAs, committed to personally helping them optimize their portfolios, streamline their business processes and achieve their full potential — all without competing for their clients. Visit trustamerica.com to learn more. TCA does not provide tax, legal or accounting advice. This material has been prepared for informational purposes only, and is not intended to provide, and should not be relied on for, tax, legal or accounting advice. You should consult your own tax, legal and accounting advisors before engaging in any business transaction.

