CORE | DATA research

The Fiduciary Rule

Sailing Through the Fiduciary Fog

November 2016

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Executive Summary

The Department of Labor's (DOL) fiduciary rule is making waves as one of the most impactful pieces of regulation in the advice industry for decades. The rule requires all advisors on retirement accounts to act as fiduciaries, meaning they have to carry out decisions in the best interests of clients.

Advisors are wary about adopting the Best Interest Contract Exemption (BICE), which permits conflicted compensation. While advisors can still receive commission, many are unsure whether to sign-up or change their business model. Over four in ten (41%) advisors who currently get commission will look to receive commission in retirement accounts through BICE.

However, commission-based compensation may be on its way out in the long term. A majority (58%) of financial advisors who currently receive commission say they will move away from it by 2020 in order to get ahead of potential future regulation. Furthermore, 74% of advisors think the fiduciary rule will in the future be expanded to non-retirement accounts.

The fiduciary rule could result in mass market investors being left out in the cold, creating the prospect of an advice gap. Seven in ten (71%) financial advisors will disengage with at least some mass-market investors because of the DOL's rule. These advisors estimate they will disengage with an average of 25% of their mass market clients.

Meanwhile, the cost of advice is expected to increase and be passed on to investors. Nearly four in ten (39%) advisors believe the cost of personal financial advice will become too expensive for most investors. While the rule aims to benefit investors, 45% of advisors believe investors would rather have cheaper, non-fiduciary advice than more expensive fiduciary advice.

Automated advice could be the only option for low-balance clients. An overwhelming 94% of respondents agree that smaller clients 'orphaned' by advisors are likely to turn to automated advice.

Advisors and their firms are looking to hire new staff, work longer hours and adjust the time they spend on different tasks. Over a third (36%) of advisors plan to hire additional staff due to the DOL's fiduciary rule and 86% intend to work more hours per week. Advisors also expect to spend more time on compliance by 2018.

Elsewhere, advisors are focusing less on investment management and more on meeting and managing clients. Advisors currently spend an average of 42% of their time meeting and

managing existing clients but expect this to rise to 45% by 2018. Selecting and managing investments currently takes up 25% of their time but they think this will drop to 21% by 2018.

In terms of product offerings, we could see a fresh focus on low-cost options. More than six in ten (62%) advisors believe the rule will lead to an increase in ETF recommendations in their retirement accounts. Furthermore, 60% believe non-traded REITs and 57% think variable annuity product offerings will decrease due to the DOL rule.

The rule underscores a trend toward more regulation across the industry. Nearly all advisors (95%) think the industry is moving toward transparency and full disclosure in the long term rather than trust-based advisory models.

The rule will help carve out new advice models. Nearly nine in ten (87%) advisors are focusing more on their value propositions in a bid to differentiate themselves in light of the new fiduciary rule.

Background

On April 6, 2016, the Department of Labor introduced a long-awaited ruling which requires advisors to put the interests of their clients above their own, adhering to a fiduciary standard of advice.

The Best Interest Contract Exemption (BICE) allows advisors to receive commission and other sales fees while still complying with the fiduciary standard. All of which means commission stays, but how easy this will be for advisors to implement is uncertain.

The rigidness of the BICE guidelines has eased significantly since conception. Originally, the exemption limited the scope of permissible assets to recommend (non-traded REITs were not permitted for example) and required extensive disclosure on fees and costs. The implementation period of the rule has also changed, with the full compliance deadline extended one year until January 1, 2018.

These developments should ease some of the concerns over the regulatory costs of the rule but will not fully eliminate them. The financial industry has warned the cost of the rule will make advice more expensive and that the financial burden will fall upon consumers — as was the case when similar regulation was introduced in other countries.

Opponents of the rule argue smaller clients will be faced with unaffordable fees, thereby limiting the access that middle-class investors have to advice. Previous CoreData analysis revealed that about seven in ten advisors in the UK said the Retail Distribution Review (RDR) had made it more challenging to work with low balance clients. To combat this, a third said they would consider adding an execution-only service for low balance clients.

Retail Distribution Review

RDR in the UK

As a result of RDR, one-fifth (19%) of advisors reported a decrease in the number of clients they advise

Four in ten (44%) said RDR had an impact on the investment products they advise on

One in five (19%) reported hiring new people as a result of RDR

RDR in South Africa

Three years after implementation, one in four (26%) reported they will decrease the number of clients they advise

Four in ten advisors (39%) said RDR will have an impact on the investment products they advise on

One in five (20%) reported hiring new people as a result of RDR

Indeed, similar regulation in the UK and South Africa has steered middle-class investors away from advice. Previous CoreData studies show about one in five advisors in the UK and one in four in South

Africa reported a decrease in the number of clients they advise. Regulation has also impacted investment products. About four in ten advisors in the UK and South Africa said regulation had influenced the investment products they advise on.

Advisory firms in the US are expected to hire new staff to help implement the rule. This would mirror the example of advisors in the UK and South Africa who reported taking on new staff (and the associated costs) to help comply with regulation. About one in five in the UK and South Africa cited regulation as reason for hiring new people.

Under the new rules, the BICE heightens brokers' liability risk. This impacts the cost-benefit analysis of the commission model. If advisors want to continue earning commission, they must sign a legally binding contract with clients detailing their fiduciary responsibilities, revealing any potential conflicts of interest and stating firm policies to mitigate conflicts of interest. While the contract aims to hold advisors accountable, the cost of implementation is high.

If advisors are to demonstrate the advice they give is in the best interest of clients, they will have to develop a solid understanding of client needs in order to justify their recommendations. Many think this will result in advisors spending more time meeting clients. This certainly holds true for the UK, where four in ten said they met with clients more following regulatory change.

Even though commission-based advice is still allowed under the new US rule, many firms with revenues heavily derived from commission will look at redressing the balance between upfront fees and commission. Although the DOL rule has evolved into a more diluted version of the original proposal, advisors should nevertheless reconsider their compensation policies for the long-term in light of increased regulation and scrutiny of the industry.

How President-elect Donald Trump will approach the fiduciary rule remains uncertain. Before the election, the rule was set to progress forward.

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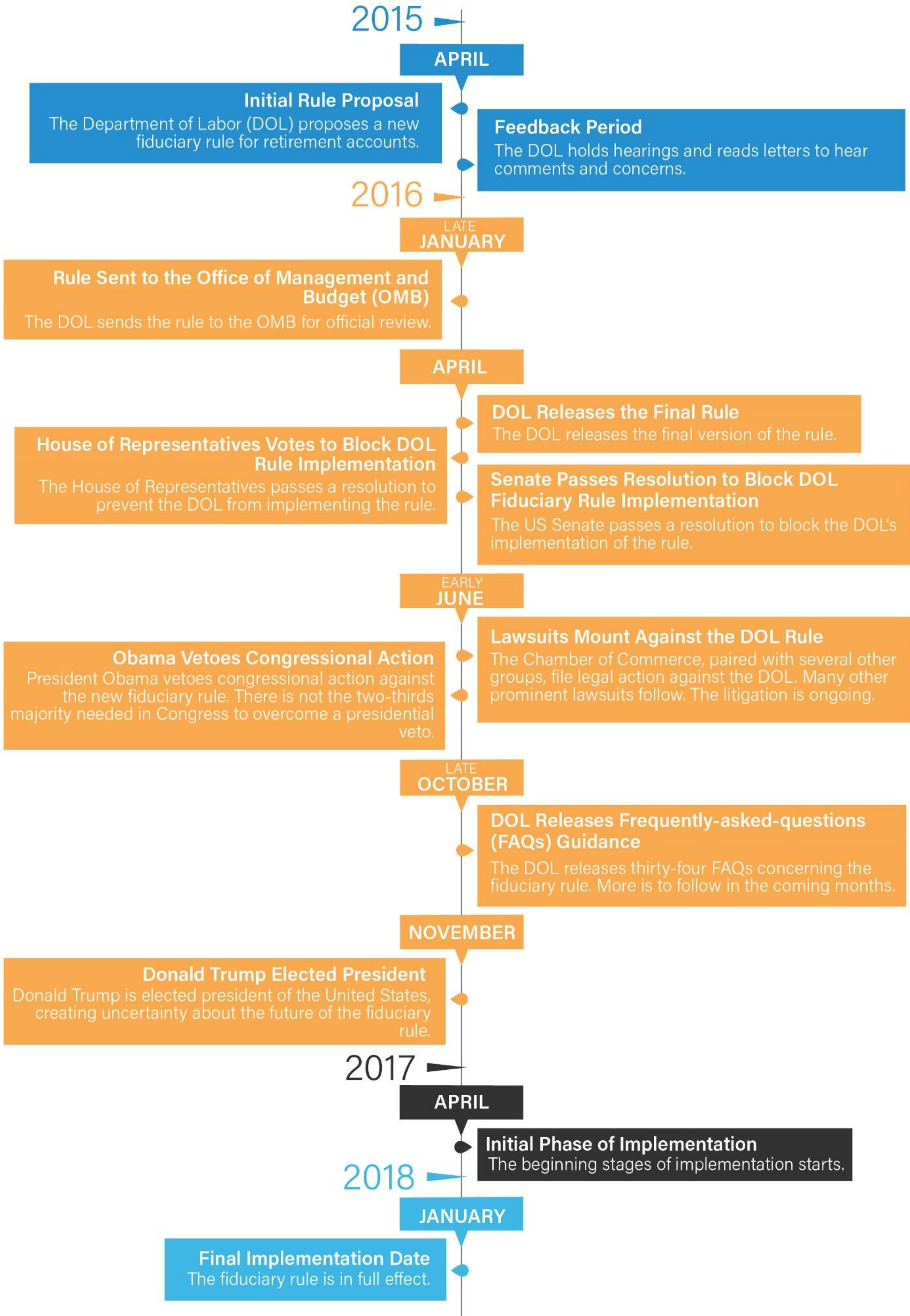
FIDUCIARY RULE TIMELINE

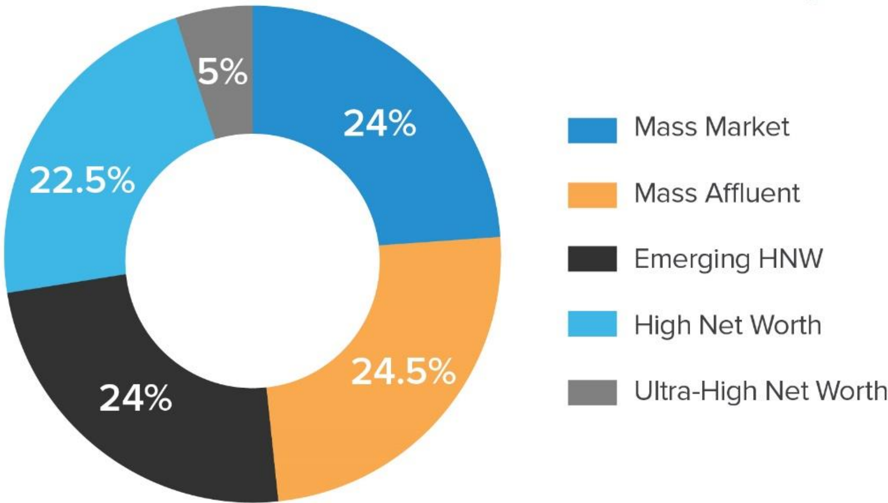


Introduction

What do advisors see when they imagine their careers in the future? How will they receive their compensation? What will regulation on the industry look like? In October 2016, CoreData went out to 552 US financial advisors who give advice on retirement accounts. In April of 2016, new regulation concerning permissible compensation for retirement accounts, known as the fiduciary rule, was laid out, with full adoption set for 2018. This report looks at the impact of the rule on advisors and how it will shape the future of advising.

ADVISOR SNAPSHOT

Client Wealth Segment



Mass-market investors, the most likely wealth segement to be affected by the rule, make up almost a fourth (24%) of the average advisor's clientele.

How Advisor Income is Split

Commissions make up a sizeable portion (29%) of the average advisor's income today.

Types of Fees	Percentage of advisors who charge this fee	Average charge
An upfront advice fee	21%	$1,725
A per hour advice fee	9%	$226
An annual asset-based advice fee	95%	1.1%

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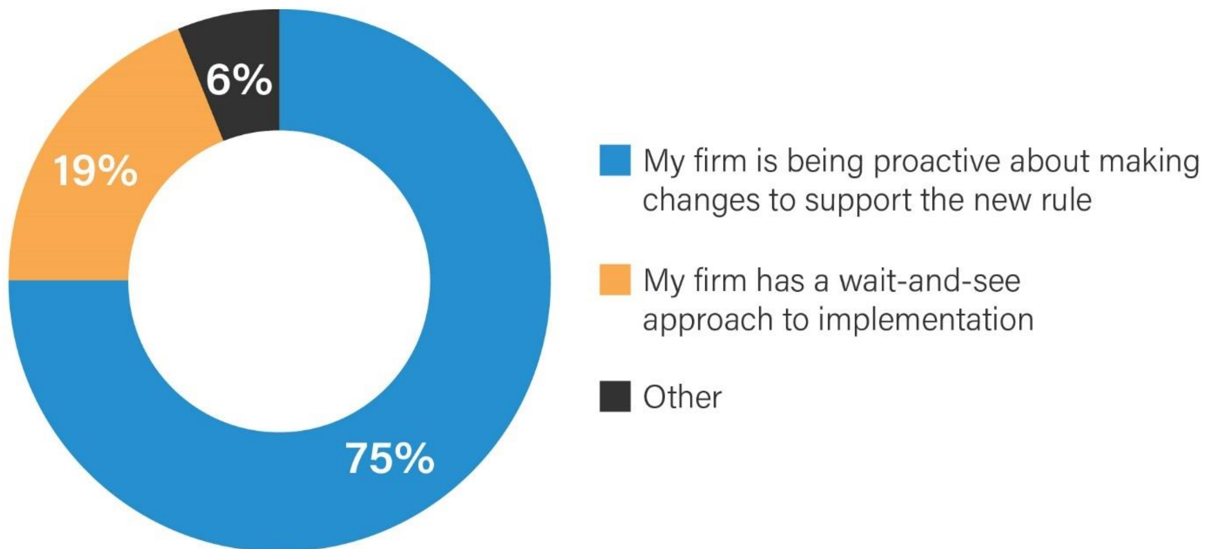
Adjusting to new expectations

Steady implementation of fiduciary rule

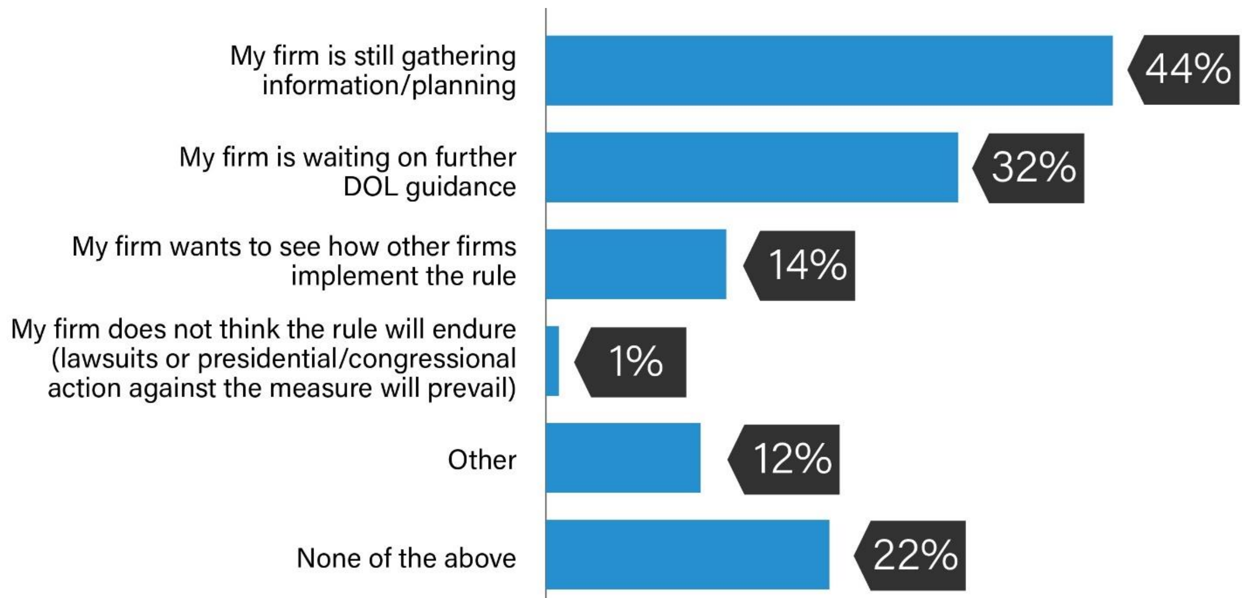
Advisors are busy preparing for the DOL's fiduciary rule. The rule entails a sizeable shakeup of the status quo and will require firms to react, adapt and implement. Three in four (75%) advisors believe their firm is being proactive and making the necessary changes to support the new rule. Only one in five firms (19%) has adopted a "wait-and-see" approach to implementation.

How Advisor Firms Are Preparing for Fiduciary Rule



Yet despite the proactive approach, just under half (44%) of advisor firms are still gathering information/planning and one in three (32%) are waiting on further DOL guidance. With the rule taking effect in April 2017 and full adoption not expected until 2018, advisors do have a grace period. Firms are still analyzing the implications of the rule amid a host of uncertainties. Furthermore, many advisors are still waiting for guidance from the DOL, suggesting a sizable proportion remain unclear about the specifics of the rule. The DOL, however, released an FAQ document in October and promised more guidance to come.

How Advisor Firms Are Progressing for Implementation



Copycat tendencies also play into the wait-and-see mentality as 14% of advisors want to see how other firms implement the rule. How their competitors and peers react to the rule can ultimately affect the way in which they choose to proceed.

While there is some caution around its implementation, the overwhelming majority see the DOL rule as being the law of the land. Nearly all advisors (99%) believe the rule will survive lawsuits or presidential/congressional action against it. But sentiment can change quickly and it is unclear whether Donald Trump will back the rule or roll it back. The future looks somewhat cloudier than before the presidential election, when this research was conducted.

Compliance hurdles loom large

The rule presents many compliance and operational hurdles for advisors to overcome. As expected, advisors are preparing for an increase in paperwork. A majority (57%) believe increased paperwork stemming from reporting and disclosure requirements will be one of the top three challenges of the fiduciary rule**.** Compliance training is a concern for more than a quarter (28%) of advisors.

Advisors are also in a heightened state of readiness for a potential rise in lawsuits related to the fiduciary rule. Nearly two in 10 advisors (18%) believe preparing for potential litigation will be one of the biggest challenges they must overcome. And 12% think the need to invest in appropriate technologies to aid compliance and implementation constitutes a major challenge.

Biggest Challenges of Fiduciary rule

Other pressing challenges facing advisors include limitations on IRA rollovers (48%), changes to compensation structure (35%), a shift away from certain products (32%), differentiating advice between retirement and non-retirement accounts (20%) and increased competition among fiduciary advisors (10%). As advisors look to juggle a host of challenges, they may look to manage compliance-related issues as a first step before addressing other ramifications of the rule.

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Changing tides: Land, ho!

Sailing away from commission

Of the concerns surrounding the fiduciary rule, the shift from commission to a fee-based compensation structure looms the largest. A third (35%) of advisors believe changes to compensation structure are one of the biggest challenges posed by the DOL's fiduciary rule. The objective of preventing advisors from recommending certain products to clients simply because they carry higher commission lies at the very heart of the rule. While commissions are still permissible, the cost of implementing the rule has nudged some advisors toward a fee-based compensation model.

Advisors are currently presented with three options under the new rule: Keep receiving commission on retirement accounts through the BICE, switch to level-fee advising or stop advising on retirement accounts altogether.

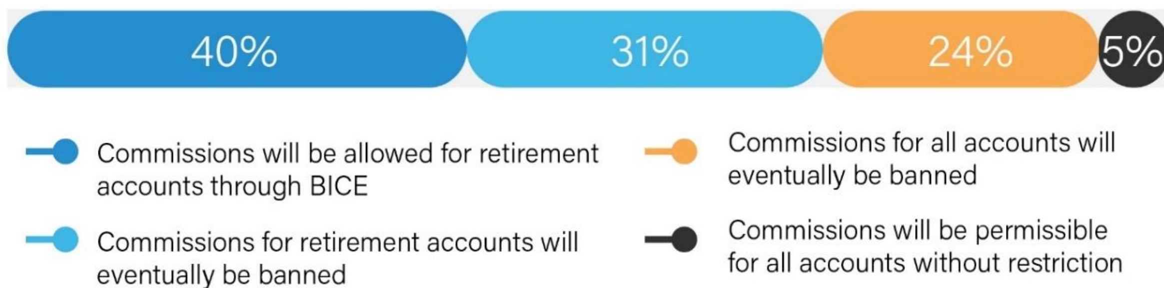
While advisors can still receive commission-based compensation, many are unsure of whether to do so under the BICE. Four in ten (41%) advisors currently receiving commission will collect commission in retirement accounts through the BICE, while 29.5% will opt against and a surprising 29.5% are still undecided. While advisors claim to be taking a proactive approach to implementation, almost a third of them are unsure about one of the most crucial aspects of the rule.

A majority (58%) of financial advisors say they will move away from commission by 2020 in order to get ahead of potential future regulation, while 28% are unsure. But switching to level-fee advising will not enable advisors to completely sidestep compliance requirements. All advisors must still adhere to limited disclosure obligations. However, becoming level-fee fiduciaries will ease compliance and legal burdens and, more importantly, safeguard against potential RDR-style future regulation. Many advisors realize the fiduciary rule will lower the profitability potential of the commission model and some are deciding whether it will be worth it for their business in the long-term.

Advisors do not see the scrutiny surrounding compensation structures fading from view any time soon. A huge majority (93%) acknowledge the industry is moving toward more tightly regulated than self-regulating markets. In the long-term, 55% of advisors believe commission on retirement accounts will eventually be banned and 24% of this group believe commission on all accounts will be banned.

At least one thing is clear in the eyes of advisors: the days of unfettered commission appear to be over. Only 5% of advisors believe commission will be permissible for all accounts without restriction in the future.

How Regulation Will Impact Commission in the Long Term



Indeed, advisors believe the fiduciary rule will overreach and stray into the rest of the advisory arena. Three in four advisors (74%) think the rule will be expanded to non-retirement accounts. Given such sentiment, a wider shift away from commission seems likely.

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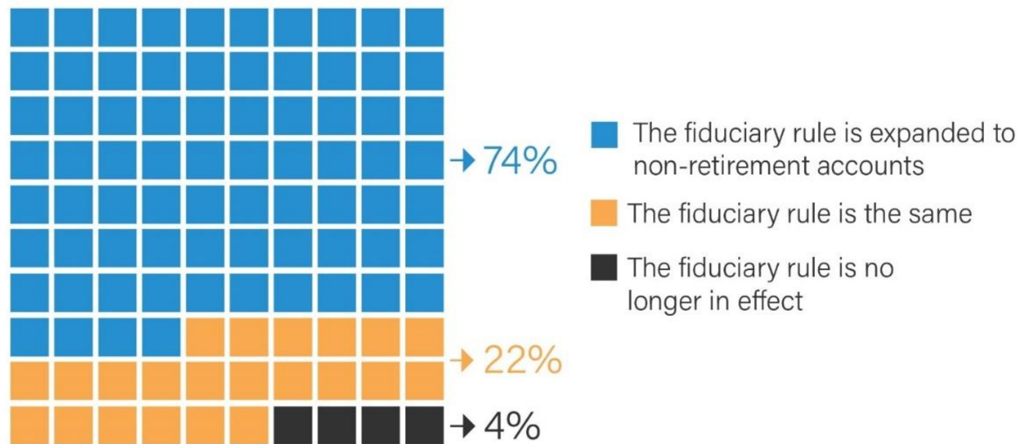
Fiduciary Rule Prospects

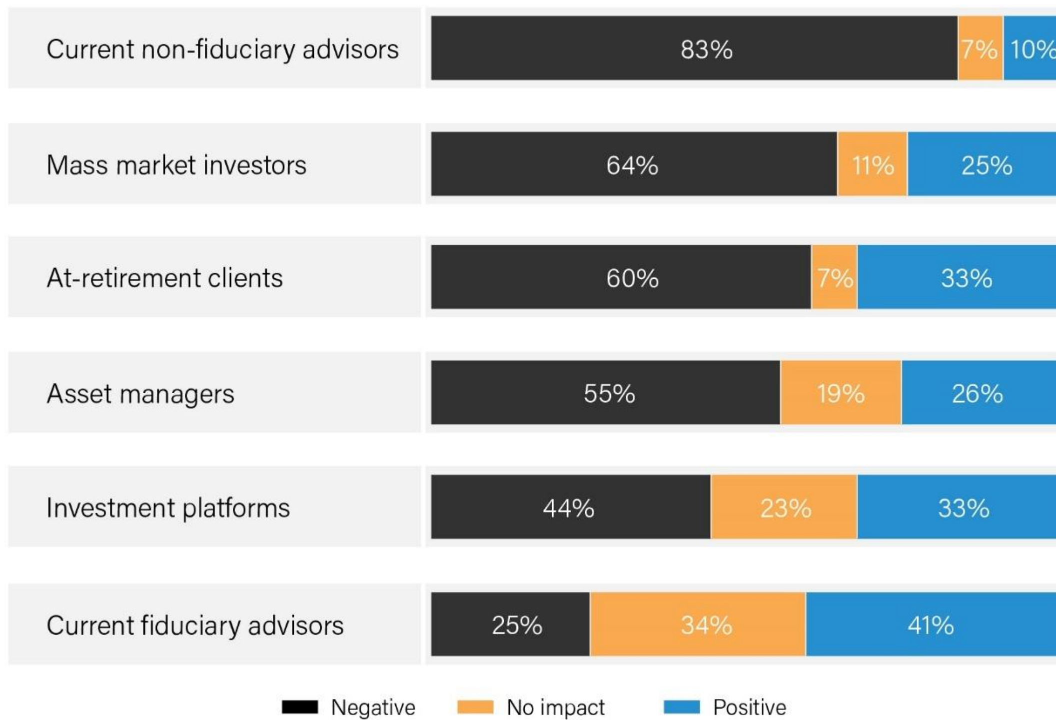


A third option — to stop advising on retirement accounts — is an unpopular choice. An overwhelming majority (88%) will not stop advising on retirement accounts altogether because of the new fiduciary rule. A further 10% remain unsure and 1% will abandon 401(k)s and IRAs. Given the regulation may eventually expand in scope to become account-wide, shifting away from retirement accounts may prove unfruitful. In the meantime, those switching to level-fee fiduciaries on retirement advice but not on other accounts will have to ensure they walk that line carefully. But abandoning retirement accounts is a drastic step many would see as an option of last resort.

Mass market clients thrown overboard — but automated advice reels them in…

One of the biggest concerns about the fiduciary rule is that investors will not receive the advice they need because it will become too costly. Two-thirds (64%) of advisors view the impact of the fiduciary rule on mass market investors as largely negative. Furthermore, 60% believe the fiduciary rule will have a negative impact on at-retirement clients — the group that arguably needs advice the most.

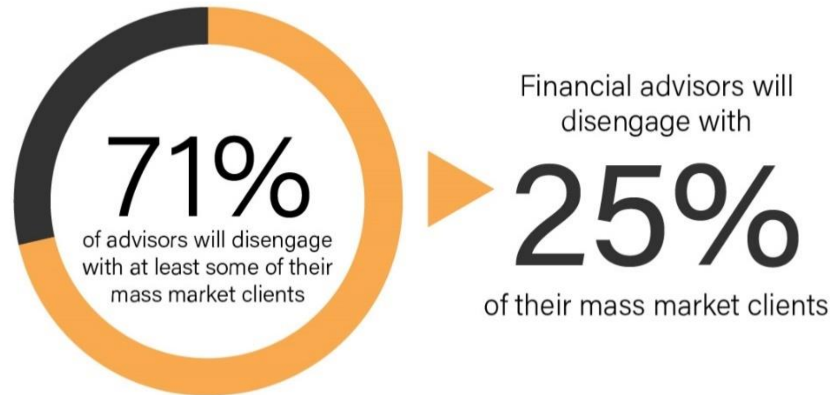
Impact of the Fiduciary Rule



The hardest hit group is expected to be current non-fiduciary advisors, with 83% saying the impact will be negative. If non-fiduciary advisors struggle with rising costs emanating from the rule, such costs could, at least partially, be passed down to clients. Low-balance clients would likely struggle the most when it comes to adjusting to rising costs.

Seven out of ten (71%) financial advisors will look to disengage from at least some mass-market investors due to the fiduciary rule. These advisors estimate, on average, they will disengage with approximately a quarter (25%) of their mass market clients.

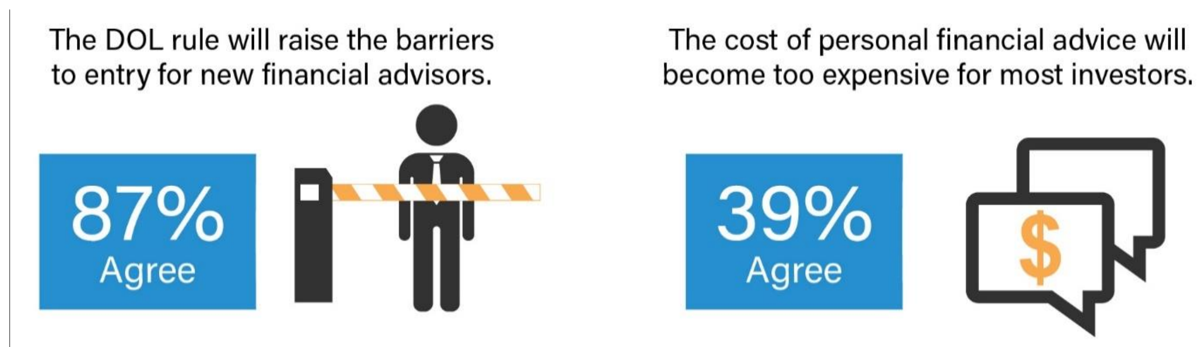
Disengaging with Mass-market Investors



However, all is not lost for low-balance clients. While 39% of advisors believe the cost of personal financial advice will become too expense for most investors, automated advice is poised to pick-up the slack left behind by traditional financial advisors.

With higher barriers to entry for new financial advisors and higher costs associated with their services, automated advice provides an important safety valve for investors left out in the cold.

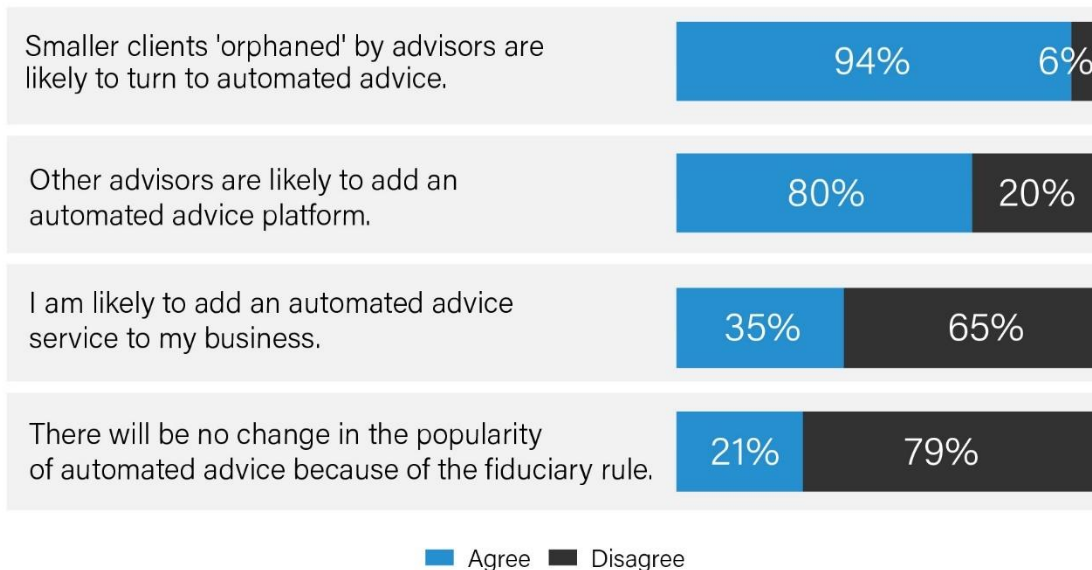
Fiduciary Rule Raising the Bar for both Advisors and Investors



The fiduciary rule was not intended to push investors into the arms of automated financial advice models — yet that appears to be a likely outcome.

A huge majority (94%) of advisors believe smaller clients ‘orphaned’ by advisors are likely to turn to automated advice as a result of the DOL rule. Advisors seem to have accepted the inevitability of the rise of automated advice and are now grappling with how they will coexist with each other. Automated advice is already on the rise but the fiduciary rule could exacerbate the trend.

Future of Automated Advice



A third (35%) of advisors will likely add an automated advice service to their business because of the fiduciary rule and 80% of respondents believe other advisors are likely to add an automated advice platform. The belief that the fiduciary rule will not impact automated advice has failed to gain any real traction — only a fifth (21%) believe there will be no change in the popularity of automated advice due to the rule.

And if the rule is going to make advice costlier then advisors will need to consider ways of making personalized advice more affordable for clients. Almost half (45%) of advisors believe investors would rather have cheaper, non-fiduciary advice than more expensive fiduciary advice. While this suggests widespread misgivings over the rule, advisors will need to adapt to the new environment.

Advisors must adapt or walk the plank

In the post-fiduciary rule world, advisors will have to demonstrate their value over other fiduciary advisors more than ever. An overwhelming 87% of advisors are focusing on their value proposition more to differentiate themselves in light of the new fiduciary rule. One in ten (10%) advisors think one of the biggest challenges of the fiduciary rule will be increased competition among advisors. Better communication, an ability to establish rapport and trust and more open access to services are all ways advisors can compete and demonstrate their value to clients.

Advisor-Investor Relationship

87% I am focusing on my value proposition more to differentiate myself in light of the new DOL fiduciary rule

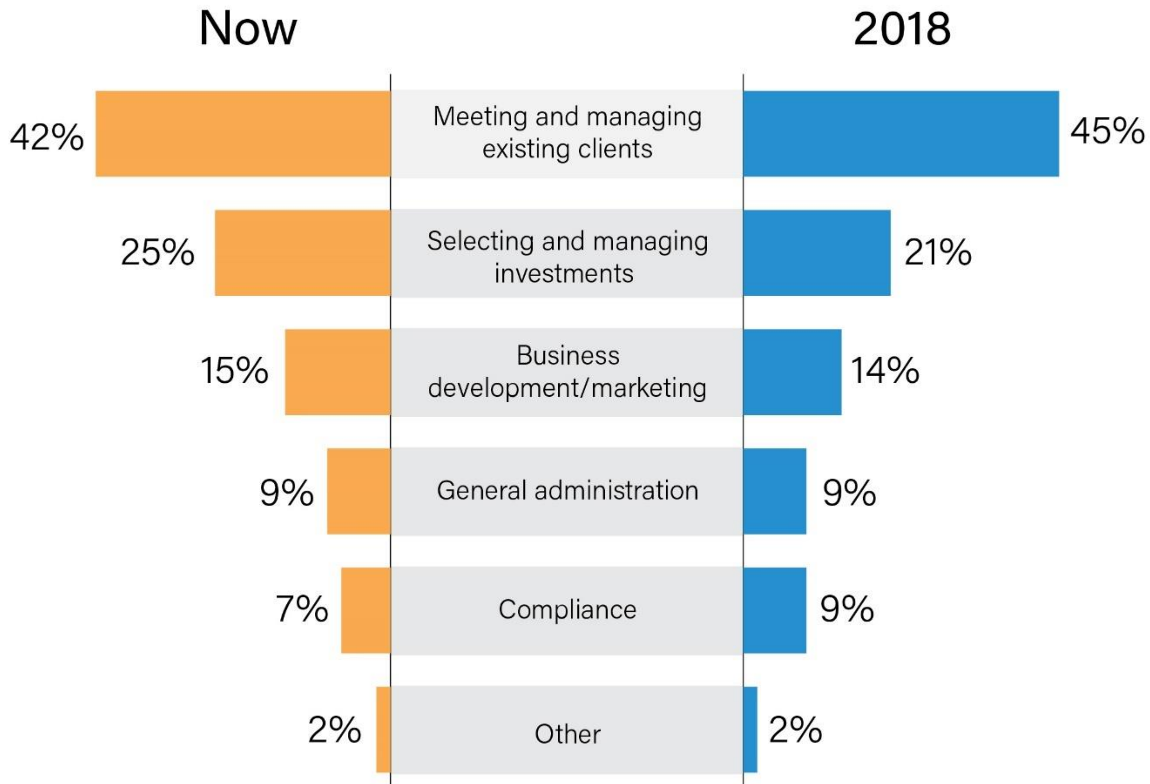
72% I have already started talking to my clients about the new rule

There are undoubtedly some positives for investors stemming from the new rule. The fiduciary rule has helped create a dialogue between advisor and investor, with 72% of advisors saying they have already started talking to their clients about the rule. This is an encouraging sign given that many firms (44%) are still in the gathering information/planning stage. Even if advisors do not understand the full implications of the rule, they are still creating a dialogue with clients that will hopefully keep communication channels open throughout the implementation process.

Indeed, the fiduciary rule appears to be encouraging greater relationship building. Advisors are focusing less on investment management and more on meeting and managing clients. Outsourcing to investment specialists is in vogue — a shift that began even before the DOL rule proposal. In the new low return world, creating dynamic client relationships could hold the key to client retention.

Currently advisors spend an average of 42% of their time meeting and managing existing clients and by 2018 expect this to rise to 45%. Conversely, managing and selecting investments takes up 25% of their time now and they expect this to drop to 21% by 2018.

Advisor Time Allocation



Connecting with clients and managing their needs and expectations will be at the forefront of advisor minds going forward.

Increased regulation raises the prospect of firms hiring more staff to bolster resources and better serve clients. Nearly one in four (23%) advisors believe their business is likely to hire new employees for their compliance and legal teams. Complying with the fiduciary rule will demand more organizational muscle and coordination. Over a third (36%) of advisors plan to hire additional staff as a result of the rule and 86% plan to work more hours per week.

36% of advisory firms will hire new staff

% of advisors who will hire the following staff:

Staff	%
Compliance/Legal staff	23%
Administrative staff	19%
Fiduciary advisory staff	14%
IT staff	6%
Business development staff	6%
Other	2%

86% of advisors will work more hours

On average, advisors will work an additional

per week

On average, advisors will work an additional 4.6 hours per week as more responsibility is placed on their shoulders.

The fiduciary rule will also alter how much time advisors spend on compliance. Currently, advisors spend an average of 7% of their time on compliance but they expect this to increase to 9% by 2018. A picture is emerging of advisors having to adjust their time management as they work more hours and hire more staff to better meet the needs of the fiduciary rule.

Product offering castaways

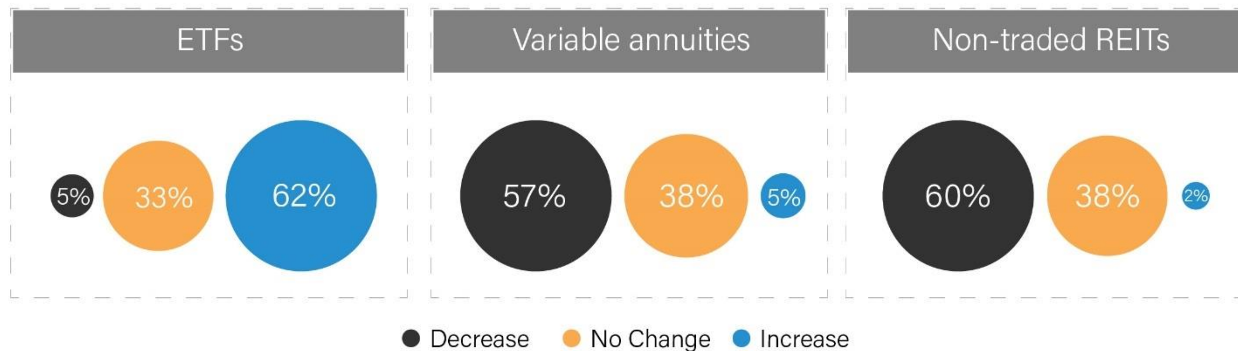
The passing of the fiduciary rule will have a demonstrable effect on investment selection. Advisors will be discouraged from recommending certain products where a strong case can be made that the selections are not in the best interest of clients.

As a result, the fiduciary rule could accelerate the trend toward passive investment strategies. One of the major goals of the fiduciary rule is that of minimizing instances where advisors recommend higher cost products with higher commissions when lower cost investments more appropriate for the investor are available. This is at the very core of the fiduciary rule: steering advisors away from recommending investments that are more profitable for them but might not be in the best interests of clients.

Six in ten (62%) advisors say they will increase ETF recommendations in their retirement accounts. Greater adoption of automated advice models will also help fuel a shift toward passive investments.

As ETFs are set to rise in popularity, other products could see a dent in demand. For example, 60% of advisors say they will decrease allocations to non-traded REITs and 57% say they will limit offering variable annuities in retirement accounts due to the fiduciary rule.

Product Offerings Affected



Issues surrounding non-traded REITs were at the center of the original proposal for the fiduciary rule. REITS were not included in the initial proposal specifying certain asset classes that could be included in retirement accounts, but the DOL subsequently ended up scrapping the list of asset classes altogether. However, it will be harder to argue that including non-traded REITs in retirement accounts will be in the best interests of clients if they continue to attract high commissions.

Advisors will also have to prove that variable annuities are in the best interests of clients. Advisors will have to delve into the specifics of both the product and their client to assess suitability. Variable annuities have been criticized for their high charges and complex details. Fee-based annuity contracts are expected to become more popular because they avoid the conflicts of interest that commission-based products are susceptible to. But advisors will still need to examine the specifics of the contract to ensure they adequately address client needs.

Advisors recognize that moving away from certain products will be part of the adjustment process to the new normal established by the fiduciary rule. About a third (32%) believe shifting away from certain products, such as annuities and non-traded REITs, is one of the biggest challenges posed by the fiduciary rule.

Limitations on IRA rollovers, another hotly-contested aspect of the fiduciary rule throughout its creation, is another challenge for close to half (48%) of advisors. Advisors must assess the fee structure of the IRA rollover comparative to that of a 401(k) plan. Often, 401(k) plan fees are lower than IRA rollovers so advisors will need to justify why an IRA rollover best suits a particular investor.

As new regulation fuels changes in allocation trends, some advisors appear to be concerned about their ability to demonstrate value in their product recommendations. Managing the fiduciary rule's potentially negative effects and drawing on its positives will be the key challenge facing advisors in 2017.

The future of advice

The fiduciary rule changes the rules of the game. The financial advice model as we know it is ending and advisors must get on board or risk getting left behind.

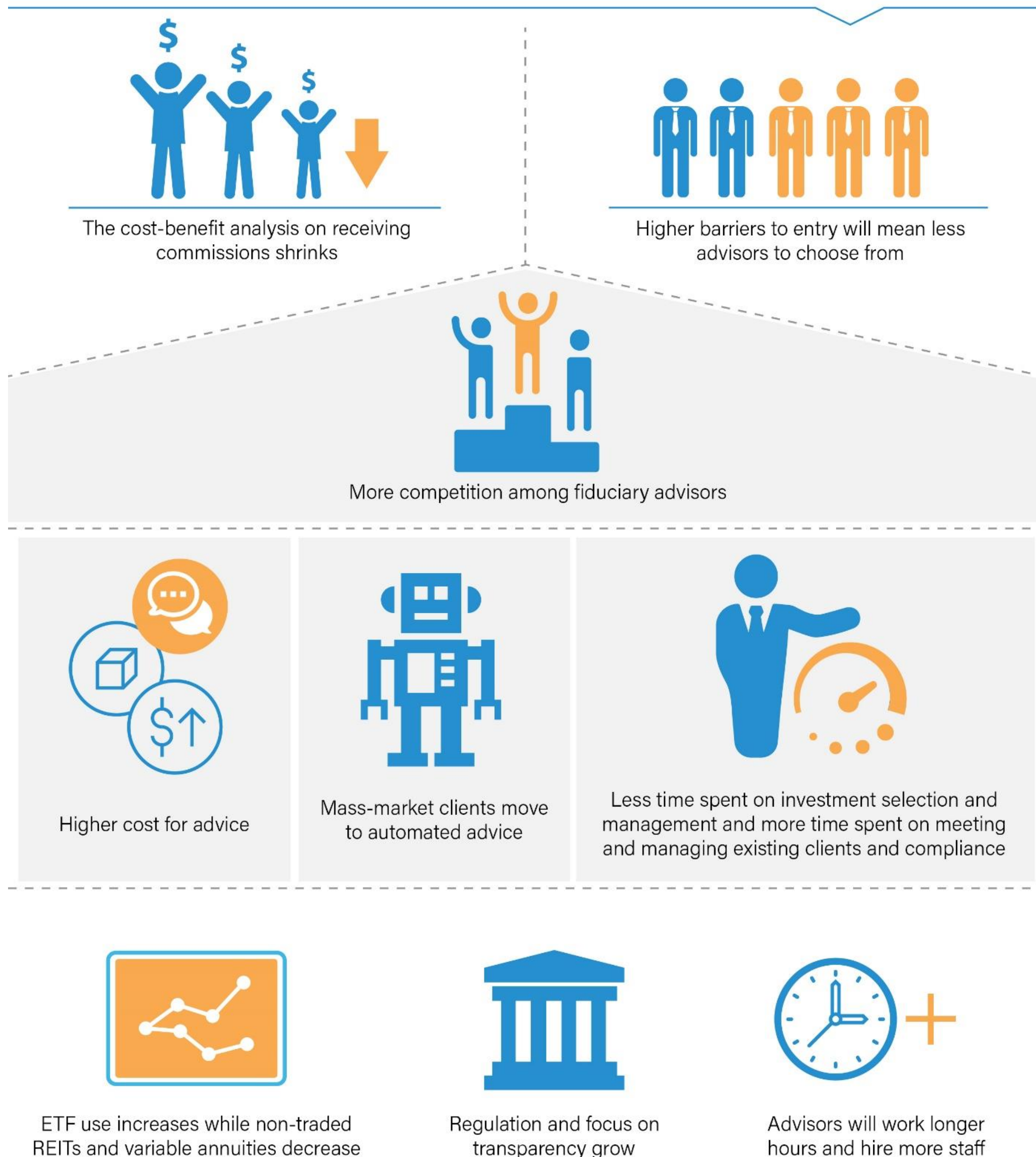
Part of the headache over the rule is the sense of uncertainty surrounding it. It has been modified from the original proposal, praised and criticized by advisory firms, hotly debated by members of Congress and a new presidential administration now leaves more questions than answers. In October, just 1% of advisors said lawsuits or presidential/congressional action is likely to overturn the rule. While this number is likely to have now shot up, the rule is still set for implementation and advisors are preparing for it accordingly. Scrapping the rule would undoubtedly cause great inconvenience and potential harm to some of those advisory firms that have already spent time and money on implementation.

But despite the uncertainty surrounding the rule, advisors are in firm agreement on where the industry is heading. Nearly all advisors see the financial advice industry moving toward a service-based model (99%) with transparency and full disclosure (95%). On paper, this will prove beneficial to clients.

Direction of the Industry in the Long-term

But the rule could bring unintended and unwanted consequences. Replacing commission with a fee-based revenue model could create an advice gap for mass market clients. However, automated advice could help fill this gap. A significant majority of advisors think the industry will move toward automated advice (70%) in the future.

Advisors also think online tools (61%) will become more popular than in-person client catch-ups, creating an opportunity for advisors to use technology to expand their geographical footprint and reach out to new clients. However, this will potentially create further competition in the online space.



The ramifications of the fiduciary rule are far-reaching and the advice industry is in for quite a shakeup. The challenge facing advisors will be that of coping with the burden of the fiduciary rule in a way that ultimately benefits their clients.

CORE DATA research

About CoreData Research

CoreData Research UK is the London-based arm of a broader global specialist financial services research and strategy consultancy.

CoreData Research understands the boundaries of research are limitless and with a thirst for new research capabilities and driven by client demand; the group has expanded over the past few years into the Americas, Africa, Asia and Europe.

The London division is part of the CoreData Group and has operations in Australia, the United Kingdom, the United States of America, Malta, Mexico, Singapore, South Africa and the Philippines.

The group's expansion means CoreData Research has the capabilities and expertise to conduct syndicated and bespoke research projects on six different continents, while still maintaining the high level of technical insight and professionalism our repeat clients demand.

With a primary focus on financial services CoreData Research provides clients with both bespoke and syndicated research services through a variety of data collection strategies and methodologies, along with consulting and research database hosting and outsourcing services.

CoreData Research provides both business-to-business and business-to-consumer research, while the group's offering includes market intelligence, guidance on strategic positioning, methods for developing new business, advice on operational marketing and other consulting services.

CoreData Research prides itself in identifying market trends at the earliest opportunity and formulating insightful quantifiable research that clients can use to help them stay ahead of the market and better meet the day-to-day challenges facing their businesses.

Our focus is on bringing deep market knowledge to research and strategy development. The group's research is not just about information and data but at providing insight so clients can develop strategies that work.

The team is a complimentary blend of experienced financial services, research, marketing and media professionals, who together combine their years of industry experience with primary research to bring perspective to existing market conditions and evolving trends.

CoreData Research has developed a number of syndicated benchmark proprietary indexes across a broad range of business areas within the financial services industry.

- Experts in financial services research
- Deep understanding of industry issues and business trends
- In-house proprietary industry benchmark data
- Industry leading research methodologies
- Rolling benchmarks

The team understands the demand and service aspects of the financial services market.

The group conducts regular research in banking, mortgages, retail saving, pensions, asset management and the financial advisory sector.

It is continuously in the market through a mixture of constant researching, polling and mystery shopping and provides in-depth research at low cost and rapid execution.

The group builds a picture of a client’s market from hard data which allows them to make efficient decisions which will have the biggest impact for the least spend.

CORE DATA research

CORE DATA

Headquarters

Australia
CoreData Pty Limited
Suite 2, Level 11, 66 Hunter St
Sydney, NSW 2000
Tel: +61 2 9376 9600
Email: info_aus@coredataresearch.com

UK
CoreData Research Ltd
6 Foster Lane
London EC2V 6HH
Tel: +44 (0) 207 600 5555
Email: info_uk@coredataresearch.com

US
CoreData Research LLC
15 Court Square, #450
Boston, 02108
Tel: +1 (857)239 8398
Email: info_us@coredataresearch.com

South Africa
CoreData Research
11 Glenlyn 5 The Glen Sea Point,
Cape Town, 7800
Email: info_sa@coredataresearch.com

Malta
CoreData Research
23, Triq San Injazju ta Loyola
Naxxar, Malta NXR 2041
Tel: +35699769367
Email: info_emea@coredataresearch.com

Mexico
CoreData Research
Cordoba 53, Departamento 202
Colonia Roma Norte
Distrito Federal, Mexico, 06700
Tel: +52 1 554 969 0620
Email: info_latam@coredataresearch.com

Singapore
CoreData Research
45 Mt. Sinai Rise
17 - 01 Beaverton Court 276958
Email: info_sg@coredataresearch.com

Philippines
CoreData Research Services Inc.
Unit E-1608 Philippine Stock Exchange Centre
Exchange Road, Ortigas, Pasig City, 1605
Tel: +63 2 310 6815
Email: info_ph@coredataresearch.com

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