



New Rules Affect 401(k) & IRA Advisers & Sponsors

Alvin Clay Financial Advisors LLC
Alvin Clay, MT, CPA, CFP® , Managing Partner

309 York Road, Suite 215, Jenkintown, PA 19046
267-626-2382 / aclay@alvinclay.com www.alvinclay.com



On April 6, 2016, the Department of Labor (DOL) issued new "conflict of interest" rules regarding financial advice as it relates to retirement plans and IRAs. The new DOL rules generally hold financial professionals to a fiduciary standard if they receive compensation for providing investment advice to retirement plan participants or IRA owners, which means they must act impartially and in their clients' best interests. Here are answers to some basic questions about the new rules.

What is a "fiduciary" and why does it matter?

"Fiduciary" is a term for an individual who has a legal or ethical duty to act for another's benefit. When a financial professional provides investment advice or recommendations to an IRA owner or an employer-sponsored retirement plan participant, and in doing so receives compensation, the new rules generally hold the financial professional to a fiduciary standard. In other words, the financial professional must put the client's best interest ahead of his or her own. To that end, the rules are designed to eliminate potential conflicts of interest. One example is a situation in which a financial professional would get paid more for one investment product than another, creating a possible conflict when he or she makes a recommendation.

Does that mean sales commissions on investments will be eliminated?

Financial professionals can continue to receive compensation via commission on investment products. Under the new rules, however, certain requirements must be followed if advice provided relates to retirement plans or IRAs, including rollovers to IRAs. For example, if a financial professional provides advice relating to an IRA, there's a general requirement for a contract stating that the financial institution and professional will act as fiduciaries and will provide investment advice that is in the best interest of the client. There are also required disclosures on fees and charges, and on commissions and other transaction-based payments.

Will anything change if a financial professional is being paid a flat fee?

The impact of the rules may be much less obvious if a financial professional is compensated based on a fixed percentage of the value of assets, or on a set fee that does not change based on the particular investments recommended. However, there will be some additional documentation requirements, particularly when any discussion involves a potential rollover of funds to an IRA.

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What about general educational materials?

The new rules do not change or limit the ability of financial professionals to provide general investment, financial, or retirement education materials. That includes newsletters; general marketing materials; research reports or news reports prepared for general distribution; and educational pieces on concepts such as risk and return, effects of inflation, and estimating future retirement income needs.

Do the new rules apply to advice that relates to accounts that aren't retirement plans or IRAs?

No. The rules only apply to advice as it relates to IRAs and employer-sponsored retirement plans, such as 401(k) plans. Existing rules will continue to govern the advice provided by a financial professional relating to taxable accounts.

When do the new rules take effect?

Most of the major provisions in the final rules do not take effect until April 2017. Some of the provisions relating to detailed disclosures, policies and procedures, and contract requirements do not go into full effect until January 1, 2018.

Where can I get more information?

The actual rules, as well as explanatory materials, can be found on the DOL website at www.dol.gov/ebsa/regs/conflictsofinterest.htm