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July 8, 2013

Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: File Number 4-606

Dear Ms. Murphy:

fi360, Inc. ("fi360") is pleased to respond to the Commission's request for information set forth in Release No. 34-69013 / IA-3558 (the "Release")[1], regarding Duties of Broker, Dealers, and Investment Advisers.

fi360 provides fiduciary education, software, and resources for investment fiduciaries and other financial professionals. Our work is based on our Prudent Practices[2] that ensure the major duties of an investment fiduciary are being fulfilled. Available products and services include fiduciary training, the AIF and AIFA professional designations, online analytical and reporting software, fiduciary handbooks, and support services for investment fiduciaries. Through the Center for Fiduciary Studies, a division of fi360, more than 5,000 investment professionals have earned the designation Accredited Investment Fiduciary® ("AIF®") or Accredited Investment Fiduciary Analyst® ("AIFA®").

fi360 strongly believes that there should be a uniform standard of conduct for personalized investment advice provided to retail investors ("retail advice"). We believe that investors expect that a uniform standard should be applied, no matter the regulatory affiliation of the individual providing the advice. We believe that the adoption of a uniform standard would not reduce the availability of appropriate investment services or investment products to retail investors.

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1 78 FedReg 14848 (March 7, 2013) .

2 fi360, PRUDENT PRACTICES FOR INVESTMENT ADVISORS (2013), PRUDENT PRACTICES FOR INVESTMENT MANAGERS (2013), and PRUDENT PRACTICES FOR INVESTMENT STEWARDS (2013).

Furthermore, fi360 strongly believes that the fiduciary standard, as it applies to registered investment advisers under the Investment Advisers Act of 1940 (the Advisers Act"), is the appropriate standard of conduct for retail advice. When Congress enacted the original legislation in 1940, it created a limited exception from adviser registration for brokers and dealers providing 'solely incidental' investment advice and not receiving special compensation.

Although much of the recent debate over adviser registration and, accordingly, a fiduciary standard of care have focused on the compensation element, misrepresentation of services by brokers using advisor-like titles as a deceptive or prohibited term was of considerable concern to the SEC for many decades. The Commission has long had the authority to regulate the investment advice of brokers as fiduciaries prior to Dodd-Frank had it chosen to do so under existing securities laws.

For example, section 208(c) of the original Act prohibited (and still prohibits) use of the term 'investment counsel' by non-registered advisers. During hearings on the legislation, investment counselors testified about the potential for reputational harm at a time when brokerage firms were establishing special investment management departments.[3] The Commission was also vigilant in prohibiting the use of the term 'financial planner' by securities brokers when the title came into vogue during the early 1970s and '80s.[4] In Staff guidance, persons holding out as financial planners were generally required to register as investment advisers, SEC Staff noting that section 208(d) of the Advisers Act "makes it illegal for someone to do indirectly under the Advisers Act what cannot be done directly."[5]

Inexplicably, by the 1990s the SEC dropped its vigilance in monitoring the use of misleading titles within the securities industry, thus leading to the oft-cited consumer confusion that we see today. A belated effort by the Commission to restrict use of the title 'financial planner' and related financial planning activities in 2005 came too late.[6] By that time, the terms 'financial advisor' and 'financial consultant' had been used and heavily marketed by the brokerage industry for a number of years and restricting the use of the title "financial planner" would not have done much to alleviate the confusion.

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[3] Arthur Laby, *Reforming the Regulation of Broker-Dealers and Investment Advisers,* 65 THE BUSINESS LAWYER 395 (2010), at 400-403.

[4] *See, e.g. In the Matter of Haight & Co,.Inc.* (Securities Exchange Act Rel. No. 9082, Feb. 19, 1971). Here the Commission held that a broker or dealer representative using the term 'financial planner' defrauded its customers because they were not expert in planning and made their decisions based on the receipt of commissions and product inventory at the firm.

[5] Staff of the U.S. Securities and Exchange Commission, *Applicability of the Investment Advisers Act to Financial Planners et al*, IA Release No. 1092, (Oct. 1987) at 9.

[6] Release Nos. 34–51523; IA–2376; File No. S7–25–99, Certain Broker-Dealers Deemed Not To Be Investment Advisers.

The SEC can remedy this regulatory failure in recent years to prohibit the use of misleading titles that imply the offer or provision of investment advisory services. The Commission has always had broad authority to do so by providing guidance on 'solely incidental' advice under the exemption for broker-dealers in section 202(a)(11)(C); under the anti-fraud provisions of section 206; and in the general prohibitions of 208 that SEC staff has cited in previous interpretative releases and enforcement actions. By adopting a broad, principles-based uniform standard of care to brokers as an overlay to existing case law and Advises Act regulation, the Commission would perform a long overdue administrative correction and restore functional regulation of investment advisers as intended by Congress in 1940, and reinforced under Dodd-Frank 70 years later.

In light of the Commission's ample authority to adopt such rules, if any adjustment is to be made in the standard of conduct for retail advice, we believe it should incorporate elements of common law that clarify the duties of investment fiduciaries to retail clients, , and prohibit the use of misleading titles, rather than adopt a compromised standard that does nothing to clarify the expectations of investors that their financial advisor will always act in their best interest.

In support of our position, this letter will discuss the following:

1. the results of a survey of AIF designees that fi360 conducted in July, 2013;
2. the findings of an academic research paper that fi360 sponsored in part;
3. several authorities that have examined the ability of investors to understand the difference between the suitability standard[7] and the fiduciary standard with respect to retail advice; and
4. our belief that the Commission should not delay adoption of a uniform fiduciary standard in deference to the "coordination" with the regulations affecting employee benefit plans or with the "harmonization" of FINRA regulations governing the brokerage industry.

fi360 Survey

In order to obtain information from our AIF and AIFA designees (the "Designees"), we surveyed all 5,735 of our current Designees; we received 703 responses, with a 78.72% completion rate. A copy of the questions and a summary report of our survey are attached as Exhibit A to this comment letter.

Background of Respondents.

[7] The "suitability standard" as referred to in this letter is the standard applied to broker-dealer conduct in providing retail advice. "Broker-dealer conduct is subject to comprehensive regulation under the Securities Exchange Act of 1934 and the rules of each self-regulatory organization to which the broker-dealer belongs." Release, at 78 FedReg 14849.

In brief, the background of our respondents is as follows:

1. Eighty-three per cent of the respondents have worked in the financial services industry for more than 10 years, with 35% for more than 25 years.

2. Twenty-eight per cent of the respondents were (or were employed by) independent investment adviser representatives or registered investment advisers, 31% were dually registered broker-dealers and registered investment advisers, and 31% were registered representatives of a broker-dealer (of which 15% worked as independent advisors).

3. Sixty-one per cent of the respondents worked in firms that employed 10 or fewer individuals; 22% worked in firms that employed more than 40 individuals.

4. Forty-three per cent of the respondents predominately generated revenue through a fee based on assets under management ("AUM"); another 40% generated revenue based on AUM plus either product commissions, or hourly, retainer or flat fees.

5. Sixty-one per cent of the respondents held FINRA Series 7 registrations; 26% held Series 6 registrations; and 26% of the respondents were Certified Financial Planners.

6. Fifty-one per cent of the respondents personally manage less than $100 million in assets; 13% manage between $100-149 million; and 24% manage $150 million or more.

Importance of the Fiduciary Standard.

Our survey covered a range of issues regarding the fiduciary standard. There were three topics of responses that were particularly pertinent to the questions set forth in the Release: the importance of the fiduciary standard; the effect that the fiduciary standard has upon our Designees' practices; and the effect that the fiduciary standard may have upon the cost and availability of products and services.

On a very basic level, 76% of our respondents agreed that a fiduciary standard protects investors, as compared to 12% who did not agree that a fiduciary standard protects investors, and 13% who were not sure. We believe that this evidences grassroots support at the professional level for adoption of a fiduciary standard by individuals who have been trained in the application of the standard and who have many years and decades of experience in this area..

Unfortunately, the respondents were not as confident that their clients were well informed about the fiduciary standard and the suitability standard—and even less confident that prospective clients were informed. We asked our respondents to select the best answer as to how well their clients were informed about the differences between the fiduciary and suitability standards. Their answers:

Best Answer	Clients	Prospects
My clients/prospects are very well informed and could accurately describe the differences between the standards.	9%	3%
My clients/prospects are somewhat informed and could provide a general idea of the differences.	33%	14%
My clients/prospects might be able to tell the difference.	30%	30%
My clients/prospects would not be able to describe the differences.	25%	46%
My clients/prospects think they understand the differences but they are usually wrong.	3%	7%

Even though, as shall be discussed below, our respondents were not convinced that the imposition of a uniform fiduciary standard would increase the costs of retail advice—or decrease the availability of investment products to retail investors—they were nonetheless in favor of the fiduciary standard, even if it did result in an increase in costs to the retail investor. The respondents replied to the following question:

> Assume that a harmonized fiduciary standard increased the cost of services to the consumer.
> In that case, do you believe the benefits to the consumer of working with a fiduciary outweigh
> the downside of consumers being priced out of the advice market?

Yes:	53%
No:	17%
Not Sure:	29%

Effect of the Fiduciary Standard on Respondents' Practices.

Typically, our respondents believed that instituting fiduciary practices within their practice was beneficial to both their clients and themselves. 63% of our respondents agreed or strongly agreed that "My clients are more satisfied now with my services/advice than they were before;" 4% disagreed or strongly disagreed. After instituting fiduciary practices, 38% of our respondents indicated that they were able to acquire new clients specifically due to their fiduciary status, whereas 6% indicated that they had to discontinue some client relationships and 2% lost clients due to their fiduciary status.

We also asked a number of compliance-related questions and found that, on the whole, our respondents felt that application of fiduciary practices increased their compliance load. 71% agreed or strongly agreed that, since they instituted fiduciary practices, their time spent on compliance has increased (only 8% felt that compliance time had decreased). Furthermore, 63% believed that compliance-related expenses had increased, whereas 13% disagreed or strongly disagreed. Our respondents estimated that, on an annual basis, their firms spent the following percentages of total revenue on compliance:

% of Total Revenues	Respondents
1% or less	14%
2-4%	27%
5-9%	26%
10-14%	19%
15-19%	7%
20-24%	5%
25% or more	2%

Cost and Availability of Services and Products.

In general, our respondents indicated that establishment of the fiduciary standard resulted in their use of a different set of products than they had used previously. Similarly, they found that when they advised new accounts that were not previously advised by a fiduciary, the product selection in the account often needed to be adjusted to align more closely with the clients' investment objectives, including reduction of financial intermediary costs. Many respondents felt that imposition of a uniform fiduciary standard would result in a cost increase to consumers, although most respondents felt that costs would decline or stay the same, particularly for the long term.

We asked respondents to answer a series of questions regarding their practice since they had become a fiduciary. 42% agreed or strongly agreed that "I use/recommend a different set of products now than I did before;" 27% disagreed or strongly disagreed. Only 22% indicated agreement or strong agreement with the statement that "There are products I would like to use/recommend, but I cannot as a fiduciary due to restricted access or cost concerns," while 45% disagreed or strongly disagreed.

We then asked respondents "When you receive a new account that was formerly managed by a non-fiduciary, do you usually need to change the product mix specifically to avoid conflicts?" Their answers were distributed as follows:

Response	**% of Respondents**
Yes, almost every time	19%
Yes, frequently	23%
Yes, some of the time	30%
Yes, but it is rare	13%
No, never	15%

The respondents were also asked whether they believed that a uniform fiduciary standard would change the costs of services provided to investors; they responded as follows:

Response	**% of Respondents**
Yes, the cost would increase	43%
No, the cost would not change	18%
Yes, the cost would decrease	30%
Other (generally "not sure")	8%

We would reiterate here that, as noted above, that—even if it meant that some investors would be priced out of the advisory market—a majority of our respondents indicated that the benefit to investors of working with a fiduciary would outweigh such a downside.

Summary.

In brief, our respondents—who are primarily small, independent investment advisers or dual registrants—feel strongly that a uniform fiduciary standard for retail advice would be beneficial for investors. They are not confident that their clients—and even less confident that prospective clients—understand the differences between the fiduciary and suitability standards.

They believe that their adoption of the fiduciary standard by their own practice has been beneficial, both in terms of client satisfaction and of attracting new clients. This is true, even though most respondents felt that the fiduciary standard entailed additional compliance time and expense.

Our respondents indicated that it was likely a different product mix would be offered to clients of a fiduciary than by an investment professional subject to the suitability standard. Slightly more of our respondents felt that the imposition of a uniform fiduciary standard would have either no effect or a beneficial effect on costs to investors than felt that investor costs would increase. In what we believe to be our most significant finding, a majority of respondents indicated that—even if an increase in costs of advisory services due to the imposition of a fiduciary standard priced some investors out of the market—the overall benefit to investors would outweigh such a downside.

Finke-Langdon Article

A major impediment to the development of accurate cost-benefit analyses is the typical lack of an opportunity to test a hypothesis without the influence of outside factors. Many knowledgeable parties can, and will, comment on the effect of the imposition of a uniform fiduciary standard, but their comments (like those of our Designees) will be based largely on intuition and speculation. We would submit, however, that one analysis has been performed which sheds a more objective light on the issues under consideration by the Commission.

Dr. Michael Finke, a professor at Texas Tech University, and Thomas Langdon, a professor at Roger Williams University, have prepared an article reflecting their analysis of the financial services available to investors in states that treat broker-dealers as fiduciaries as opposed to the services available in states that apply a lesser standard of conduct to broker-dealers.[8] In preparing the article, the authors identified four states that impose an unambiguous fiduciary standard on broker-dealers (the "fiduciary states"), fourteen states that do not impose a fiduciary standard on broker-dealers (the "non-fiduciary states"), and thirty-two states that impose a limited fiduciary standard ("limited fiduciary states"). They then compared the "saturation rate" (the number of registered representatives of broker-dealers that are not dually-registered compared to the number of households) among the three types of states.

> When New York (which houses a disproportionate proportion of broker-dealer firms) is excluded from the non-fiduciary states, the saturation rate is almost identical between fiduciary, limited fiduciary, and non-fiduciary states…These results provide evidence that the [broker-dealer] industry is likely to operate after the imposition of fiduciary regulation in much the same way it did prior to the proposed change in market conduct standards that currently exist for brokers.[9]

In other words, the presence or absence of a fiduciary standard for brokers did not materially affect the proportion of brokers to households, implying that the financial rewards of the brokerage industry did not differ substantially from state to state based on the imposition of the fiduciary standard.

The authors also took a survey of registered representatives located in fiduciary and non-fiduciary states regarding the conduct of their business. The survey covered such items as: the brokers' ability to serve moderate wealth customers; the ability to offer a variety of products, the ability to provide product recommendations that are in their customers' best interest, and whether representatives experience a greater compliance burden. The difference in responses from representatives in fiduciary states and those in non-fiduciary states was not statistically significant:

> The percentage of clients who have an income of less than $75,000 is statistically equal between both groups, and there is no statistically significant difference in either the percentage of high wealth clients or in the percentage of brokers who believe they serve the needs of low and moderate wealth clients. Nearly all respondents believe they are able to provide products and advice that meet the needs of customers. The percent who respond that they are able to recommend commission products is 88.5% in strict fiduciary states and 88.2% in non-fiduciary states. The largest percentage point difference among any of the questions is whether the cost of compliance is significant. 70.9% of

[8] Finke, Michael S. and Langdon, Thomas Patrick, *The Impact of the Broker-Dealer Fiduciary Standard on Financial Advice* (March 9, 2012). Available at SSRN: http://ssrn.com/abstract=2019090 or http://dx.doi.org/10.2139/ssrn.2019090 (the "Finke-Langdon Article"). The Finke-Langdon Article was made possible in part by donations from fi360.

[9] Finke-Langdon Article, pp.22-23.

> respondents in fiduciary states felt the costs were significant compared to 61.9% in non-fiduciary states.[10]

We believe that the Finke-Langdon Article represents strong evidence, not conjecture based on intuition and speculative estimates, that the imposition of a uniform fiduciary standard would neither reduce the availability of retail advice to investors nor unduly constrain the ability of financial advisors to provide a broad range of products or tailored advice to retail investors.

A copy of the Finke-Langdon Article is attached as Exhibit B to this letter.

Investors' Understanding of the Fiduciary and Suitability Standards.

A recurring concern by those who have examined the difference between the fiduciary and suitability standards, and the differences between investment advisers and broker-dealers in their offering of retail advice, is whether investors know the differences between the two standards and understand the impact that the differences may have upon their investment performance. The Commission Staff, in its Study required under Section 913 of the Dodd-Frank Act (the "Staff Study")[11], after a review of three significant studies commissioned by the Commission on this issue, concluded that:

> The foregoing comments, studies, and surveys indicate that, despite the extensive regulation of both investment advisers and broker-dealers, retail customers do not understand and are confused by the roles played by investment advisers and broker-dealers, and more importantly, the standards of care applicable to investment advisers and broker-dealers when providing personalized investment advice and recommendations about securities.[12]

The failure of investors to understand the difference between the fiduciary standard and the suitability standard is not a problem facing only the financial services industry in the United States. The Canadian Securities Administrators ("CSA") recently requested public comments on the appropriate standard of conduct for investment advisers and broker-dealers when providing retail advice.[13] The CSA expressed their concern that a suitability standard was not sufficient for

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[10] Finke-Langdon Article, p. 20.

[11] Staff of the U.S. Securities and Exchange Commission, *Study on Investment Advisers and Broker-Dealers As Required by Section 913 of the Dodd-Frank Wall Street Reform and Consumer Protection Act* (Jan. 2011).

[12] Staff Study, p. 101.

[13] Canadian Securities Administrators, Consultation Paper 33-403, "*The Standard of Conduct for Advisers and Dealers: Exploring the Appropriateness of Introducing a Statutory Best Interest Duty When Advice is Provided to Retail Clients*" (October 25, 2012) (the "CSA Paper").

the protection of investors when there was an asymmetry of information regarding the structure and cost of financial products between investors and financial service professionals.[14] Furthermore—and more to the point, the CSA also expressed concern about an "expectation gap" between "the expectations of investors and the actual legal protection that exists…[T]hese expectations of investors are often created and reinforced by the advertising and promotional statements made by some advisers and dealers. "[15]

However, the failure of investors to understand these differences may not be due to the representations or actions of the financial professionals. A recent article by Professor Robert A. Prentice of the University of Texas, surveys a number of articles in the fields of behavioral economics and behavioral psychology and applies their conclusions to the issue of disclosure of "non-fiduciary duty" as an antidote to the expectation gap.[16] He concludes:

> Non-fiduciary-duty disclosures do not provide brokers' customers sufficient material with which to adequately assess their situation and protect themselves from potential abuse. Nor do NFD disclosures adequately rein in brokers. Rather, they may well cause brokers to unconsciously give customers even more biased advice than they would have given in the absence of the disclosures, as they unconsciously grant themselves moral license to depart from their own ethical standards.[17]

To summarize, investors are not knowledgeable about the differences between the fiduciary standard and the suitability standard. There is an expectation among investors, however, that their financial professionals are meeting the principles of the fiduciary standard. It is not clear—and may be contrary to typical human behavior—that disclosure is a sufficient method to address investors' need in this arena.

<u>Avoid the Distractions of "Coordination" and "Harmonization"</u>

We caution the Commission to avoid the inevitable delays that would result from efforts (1) to coordinate any regulation creating a uniform fiduciary standard for retail advice with a standard to be promulgated by the Department of Labor with respect to employee benefit plans or (2) to harmonize the body of regulations applicable to investment advisers with the regulations

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[14] CSA Study, pp. 36-37.

[15] CSA Study, pp. 37-38.

[16] Robert A. Prentice, *"Moral Equilibrium: Stock Brokers and the Limits of Disclosure,"* 2011 WISCONSIN LAW REVIEW 1059 (2011).

[17] Prentice, p. 1107.

applicable to broker-dealers. We believe that the interests of investors would be significantly impaired by such efforts.

As we have stated elsewhere, we strongly believe that the standard applicable to the conduct of fiduciaries with respect to employee benefit plans under the Employee Retirements Income Savings Act of 1974 ("ERISA") has a separate and distinct purpose from the standard applicable to investment advisers or broker-dealers providing retail advice.[18] ERISA and the Advisers Act were adopted by Congress to address different problems in different ways. It is not necessary, and would certainly be counter-productive; to delay the adoption of a fiduciary standard for retail advice as the Department of Labor weighs the merits of a standard with significantly different purposes and application.

In a slightly different vein, there may be some benefit in "harmonizing" the regulations applicable to investment advisers and broker-dealers so that identical functions are subject to the same regulatory requirements. However, most of these regulations will not directly affect investors, but they will take a substantial amount of time and effort to accomplish. We do not believe that it is necessary or desirable to delay the adoption of a uniform fiduciary standard for retail advice, which would immediately and directly benefit investors, while the Commission and the appropriate self-regulatory organizations analyze and amend the regulatory structure which governs the financial services industry.

Conclusion

Based on information obtained from our Designees, academic studies, and the conclusions of the Commission's own Staff, we believe the following to be true:

1. Investors are not knowledgeable about the difference between the fiduciary standard and the suitability standard, even though it affects the array of financial products in which they invest.

2. It is not clear that disclosure is an effective method of enabling investors to make self-interested decisions about the suitability standard and its implications for their investment performance.

3. The imposition of the fiduciary standard in some states does not appear to have caused the reduction of available services or appropriate products to retail investors.

[18] Blaine F. Aikin, *"'Coordination' is code for dilution,"* INVESTMENT NEWS (May 26, 2013).

4. Investment professionals subject to the fiduciary standard overwhelmingly believe that it is beneficial for investors, without imposing undue costs on the investment professionals.

5. Retail investors expect that their investment professionals will conduct themselves as fiduciaries, even though they may have received disclosure to the contrary.

Based on these findings, fi360 strongly recommends that the Commission proceed with the proposal of a rule applying a uniform fiduciary standard no less stringent than currently applied to investment advisers under Advisers Act Sections 206(1) and (2).

We would be glad to answer any questions that the Commission or its Staff may have with respect to the information presented in this letter or with our conclusions.

Very truly yours,
fi360, Inc.

Byron F. Bowman
Senior Vice President and General Counsel

Exhibit A

to

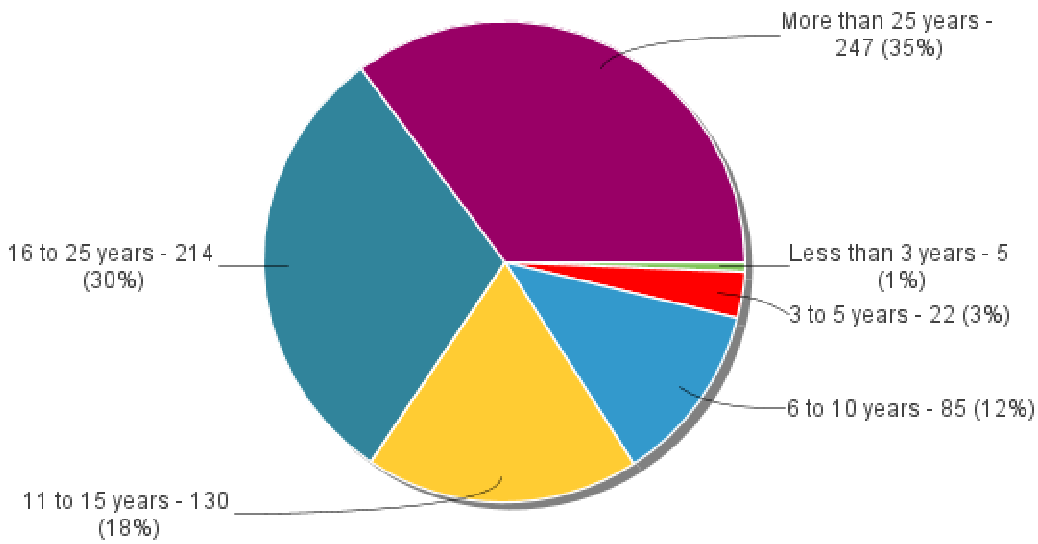
fi360, Inc. Comment Letter

File No. 4-606

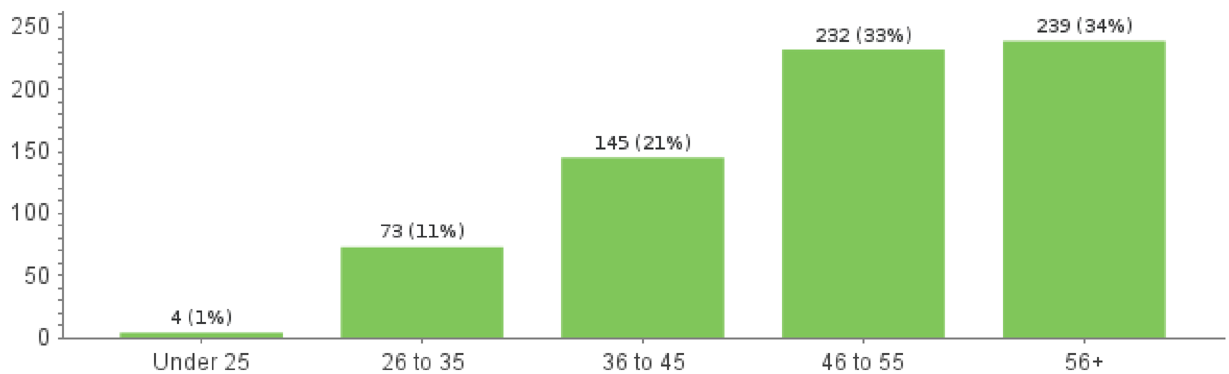
Summary Report

(Completion rate: 78.72%) (Completed responses)

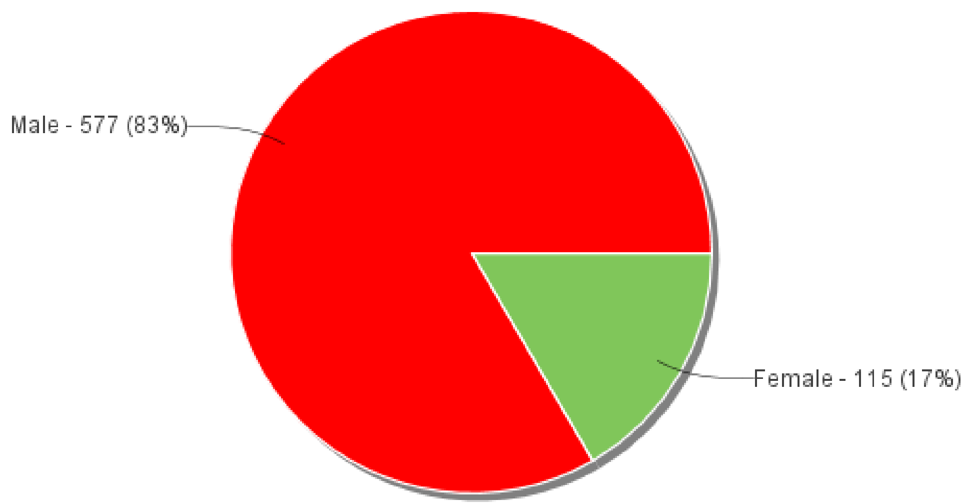
How long have you been working in the financial services industry?



(optional) What is your age?



(optional) Please indicate your gender



Which of the following best describes your business/regulatory model?

Response	Chart	Percentage	Count
Registered representative working as an employee for a broker-dealer		13%	88
Registered representative working as an independent adviser affiliated with a broker-dealer		15%	106
Registered representative working for a bank, credit union or savings loan		3%	21
Dually registered adviser (both a FINRA license and an IAR/RIA registration)		31%	220
Independent IAR/RIA		28%	200
Unregistered planner/adviser		1%	7
Other, please specify...		9%	61
	Total Responses		703

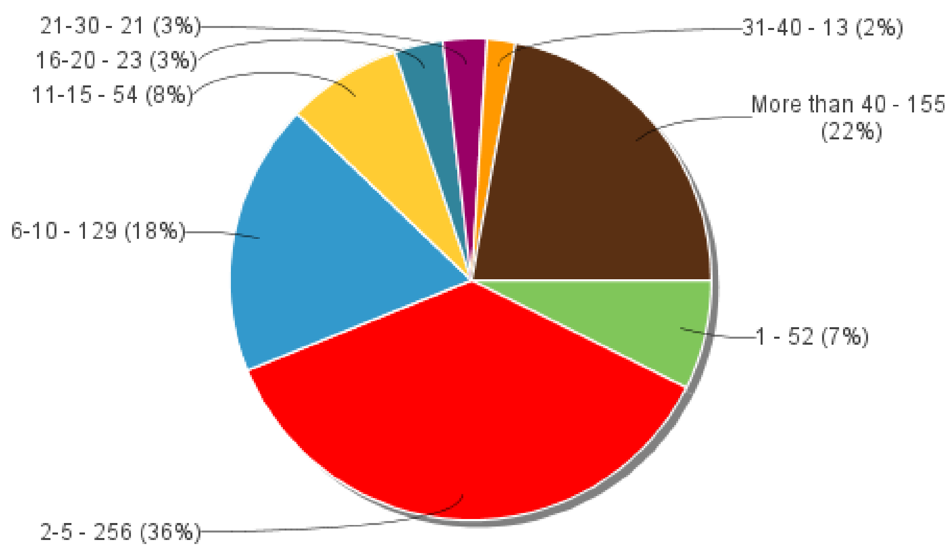
Which of the following best describes your business/regulatory model? (Other, please specify...)

#	Response
1.	Registered Rep working as a IAR of unaffliated B/D
2.	Registered representative working as an employee for an insurance company
3.	bank wealth mgmt custody
4.	compliance consultant, former CCO of registered investment adviser
5.	Officer, principal of IBD
6.	Bank trust officer
7.	TPA
8.	Portfolio Analyst
9.	Bank insititutional trust VP
10.	Investment Officer in a Trust Department
11.	Registered rep working as consultant at insurance company
12.	recordkeeper/consultant
13.	bank
14.	Unemployed
15.	Home office employee of b/d
16.	Consultant
17.	Trust Company
18.	Employee of National RIA Firm
19.	Bank Trust Dept.

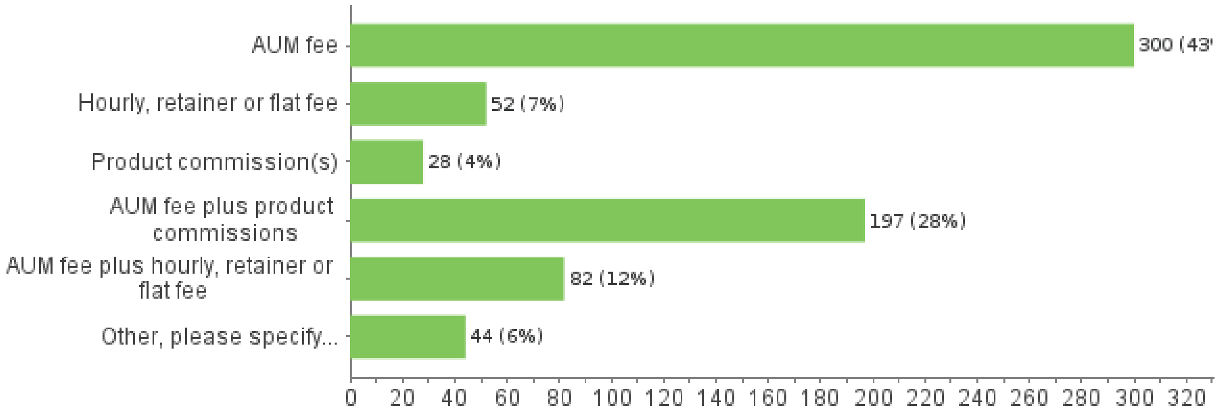
20.	Municipal 457 Plan Oversight Committee
21.	Non-registered trust company PM.
22.	Authorised Financial Adviser in New Zealand
23.	Executive Director of an NGO managing endowments
24.	Portfolio Manager in the Trust Company
25.	Fund Trustee
26.	Administrator of retirement fund
27.	bank trust department
28.	bank custody administration
29.	independent trust company
30.	ERISA Consultant
31.	fi360
32.	Wholesaler for an investment manager
33.	TPA/Fiduciary Consultant
34.	RK / TPA
35.	National Trust Company adviser/planner
36.	Institutional Sales for Trust Company
37.	attorney
38.	CPA/ERISA Desginated Partner
39.	Unregistered trust officer working for a bank
40.	work as a rep of a mutual fund company
41.	New Zealand Adviser - Financial Planning practice
42.	TPA Pension Consultant
43.	Retirement plan wholesaler that is dually registered.
44.	wholesaler
45.	Retirement Plan Consultant
46.	Reg. Rep. working for a TPA
47.	RIA employed by fee only RIA
48.	Client Advisor Institutional Investments in a Bank
49.	Investment manager sales
50.	401(k) marketing executive
51.	Mutual fund sales
52.	Investment Manager
53.	Consultant
54.	wholesaler for 401k platform

55.	Fiduciary consultting
56.	Formerly dually registered (FINRA/RIA); now RIA registered but no longer advise clients re investments
57.	CEFEX Analyst and consultant
58.	Government
59.	Mutual fund company rep
60.	Registered Rep. working as an employee for an insurance company in the Retirement Plan unit
61.	Fiduciary consultant

How many individuals are employed by your practice/firm? Please include yourself.



How do you predominately generate revenue?



How do you predominately generate revenue? (Other, please specify...)

#	Response
1.	0
2.	flat fee for plan administration
3.	Family Office
4.	AUM and AUC fees
5.	retainer and sucess fees
6.	per-head and asset-based
7.	fixed fee schedule for trust and recordkeeping services
8.	some accounts commission, some accounts fee based
9.	Unemployed
10.	Currently I am not in a sales position
11.	AUM, Commission, retainer and flat fee
12.	Advisory
13.	Volunteer
14.	Grants and management fees charged to endowments
15.	I apply my AIF for the Fund. I do not charge fees.
16.	Members' contribution and investment earnings
17.	No Fee
18.	AUM and trails
19.	fi360
20.	n/a
21.	flat fee
22.	salary plus bonus
23.	BASE / PER PART. and ASSET BASED

24.	Hourly or AUM or commission
25.	AUM fee, flat fee, hourly rate, commission on insurance products only
26.	salary employed at home office of broker/dealer
27.	Asset fees plus admin fees
28.	AUM, hourly fees or comm
29.	Salary from TPA Firm
30.	P L of investment manager
31.	fees on service not tied to assets
32.	Practice is outside scope of financial services
33.	Fum and fees
34.	All of the above
35.	Government
36.	AUM,FP Fees, comm
37.	All of these options
38.	Mutual fund management fee
39.	AUM, Commission, or retainer/flat fee
40.	salaried
41.	I am a home office employee and do not receive revenue
42.	planning fee + commissions

Which of the following certifications or designations do you currently hold?

Response	Chart	Percentage	Count
AIF		91%	638
AIFA		12%	84
CFA		2%	17
CFP		26%	183
ChFC		10%	67
CIMA		6%	41
CLU		9%	65
CPA		3%	23
CPA/PFS		2%	11
Series 6		26%	181
Series 7		61%	426
Series 65		54%	380
Series 66		34%	240
Other, please specify...		44%	306
None		0%	1
	Total Responses		703

Which of the following certifications or designations do you currently hold? (Other, please specify...)

#	Response
1.	Series 24, CRPS
2.	series 8
3.	Series 31
4.	MSFS
5.	JD, MBA
6.	Series 63
7.	CIMC
8.	CSP
9.	series 24
10.	AWMA, CAP
11.	CRPS
12.	CAIA
13.	24
14.	Series 4,8,24,53 AWMA
15.	CLTC, and CFS

16.	MS Taxation
17.	24
18.	CEBS
19.	series 24, series 63
20.	Series 8, CRPS, QPFC
21.	life insurance
22.	CFS, CLTC
23.	IACCP, J.D.
24.	PPC
25.	Life/Health Insurance
26.	Series 63
27.	EA, Series 4,24,27,53, life Hlth
28.	CRPS
29.	CRPS
30.	31
31.	CRPC
32.	53, 24, JD
33.	CWS
34.	Life Health Ins
35.	CMFC, CRPC
36.	CEBS
37.	AWMA, CRPS
38.	QPFC
39.	ERPA CRPS
40.	CRPS
41.	Series 24
42.	Series 31, Insurance
43.	QPA, Qualified Pension Administrator from ASPPA
44.	CRPS
45.	CRPS
46.	S24
47.	AWMA, APMA
48.	22,24
49.	24
50.	osj

51.	RFC
52.	CRPS, sireies 9 and 10
53.	Series 31 63
54.	CFM,CMA
55.	24
56.	Series 24
57.	APR
58.	AWMA
59.	series 8
60.	ASPPA CPC
61.	Series 63, 24, 53, MBA
62.	C(k)P, AAMS
63.	CRPC, CRPS
64.	AAMS, CFS
65.	Series 63
66.	Series 63, L
67.	24, 63 , 51
68.	CTFA
69.	Series 24
70.	series 3
71.	CASL, 63
72.	Series 63, CLTC
73.	CIPM
74.	63
75.	CGMA
76.	PPC
77.	Series 24
78.	Series 24
79.	MSFS
80.	REBC, Series 24, 51, 63
81.	CEBS,TGPC
82.	S9, S10, S24
83.	PPC
84.	CRPC, Qualified Kingdom Advisor
85.	Series 24, 10

86.	CPA/CFF
87.	CRPS, Life Health License
88.	Series 24, 53
89.	Registered Fiduciary
90.	series 24
91.	Series 31
92.	RFC
93.	cltc
94.	PPC
95.	63
96.	CRPS
97.	CIMC
98.	24.51
99.	S24
100.	22,63,26,24
101.	cws
102.	CLTC
103.	24
104.	Series 63
105.	Series 9,10,63
106.	Series 24, ARPC
107.	Series 62
108.	PRP
109.	Series 26
110.	Enrolled Agent (EA)
111.	63
112.	MBA Series 9, 10 31
113.	MD
114.	RF, GFS,REBC
115.	Authorised Financial Adviser (New Zealand)
116.	Series 63
117.	CPC
118.	Enrolled Agent
119.	QPA, QKA, ERPA, APR
120.	PPC, CBC

121.	Series 24, 26
122.	AFA, AFP
123.	Series 8 3
124.	CGMA
125.	CIM, FCSI (canada)
126.	Series 24; CRPS
127.	Series 63, CRPS, MBA
128.	LUTCF, EA
129.	86
130.	CEP, BS
131.	RFC, CRC
132.	QPFC, PPC
133.	CHRP
134.	24
135.	CIM, FCSI, ICD.D
136.	
137.	CFS
138.	24, 63
139.	24
140.	ARPC
141.	WMS of the CFP
142.	Series 31
143.	51,24
144.	Series 24 and Series 63
145.	CRPS, CRPC, Life Insurance
146.	State Insurance License (Life, Health, Variable)
147.	Life health
148.	series 24, RFC, CFS
149.	CRPC
150.	63
151.	26,79
152.	C(k)P - Certified 401(k) Professional
153.	63
154.	CMFC, AWMA
155.	QKA / QPFC

156.	MSFS
157.	Series 63
158.	Series 24
159.	JD, CIDA, GFS
160.	s 63
161.	EA, CEBS
162.	Series 24
163.	WMS
164.	CRSP
165.	CRPS
166.	AAMS
167.	Series 24/51
168.	CRPS
169.	life,health,variable
170.	CBFA (Certified Behavioral Finance Analyst
171.	Life
172.	PPC; Series 26
173.	CEBS
174.	LIC - Life and Health Insurance Counselor
175.	24, 22
176.	24,99
177.	CIMC
178.	series 24
179.	Series 63
180.	Series 31, Life Insurance Licensed
181.	AAMS, CRPC
182.	cltc
183.	Series 24
184.	MSFS, Series 24
185.	Life Health
186.	Series 22, 24 REBC and CExP, CSP
187.	MSPA
188.	Series 63
189.	Series 24
190.	24

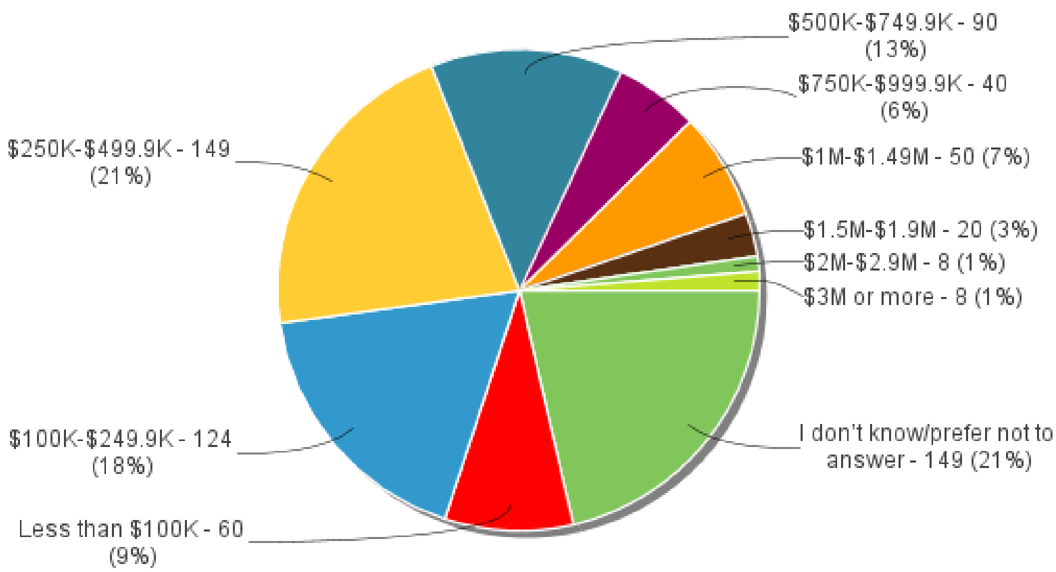
191.	Series 24
192.	24, 63, 79
193.	Series 8, 24
194.	QPFC
195.	CRSP
196.	30,31
197.	RFC
198.	CPWA
199.	CRPC
200.	24, 53,72,79 Chartered Blobal Management Accountant
201.	QKA
202.	63, CRPS, CRPC
203.	Series 24 - Series 63
204.	CRPS
205.	CWS - Certified Wealth Strategist
206.	MBA, Series 24
207.	C(k)P
208.	CLTC
209.	Series 24
210.	63
211.	CEBS
212.	life, health, P
213.	series 31
214.	ARPC
215.	22
216.	Series 63
217.	24
218.	RFC
219.	Series 24, Series 51, and MSFS
220.	JD,AWM
221.	insurance
222.	24
223.	CFS
224.	JD
225.	mba

226.	CRPC, AAMS
227.	Series 26
228.	Series 63 24
229.	L H insurance licensed, Chartered Wealth Advisor - CWA
230.	Series 63
231.	4 other licenses, plus real estate managing broker, plus insurance broker
232.	JD
233.	AIF., AWM
234.	series 24
235.	crps
236.	aams, awma, crc
237.	CWS, GFS
238.	AWM
239.	Series 3,4,24, 53
240.	Series 24
241.	Series 63, Series 24, CEP
242.	CIMC, Series 63, Series 31, Series 24
243.	CEBS, CFS
244.	Series 63
245.	63
246.	3, 24, crps
247.	Formerly CFA, PFP
248.	mba
249.	CIMC, CRPS
250.	CRPC
251.	CRPS
252.	ARPC, CRPC
253.	Series 24, ARPC
254.	63
255.	MBA
256.	MSFS
257.	CRPS
258.	24
259.	24, CFS, RFC
260.	AFA, AFP

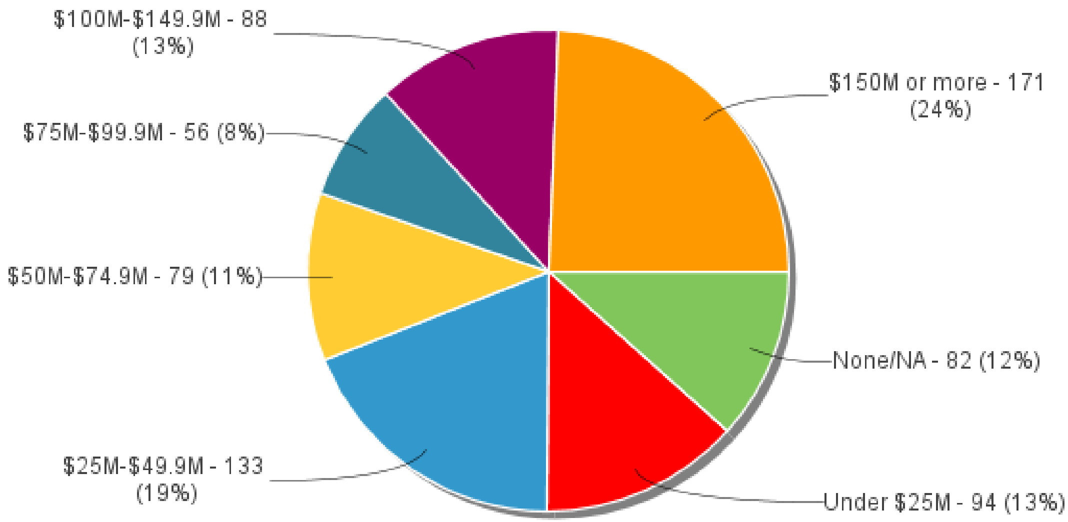
261.	series 44
262.	Series 31
263.	Certified Mngmt. Accountant
264.	Enrolled Agent (EA)
265.	Global Fiduciary Strategist
266.	Series 31, 24, 63
267.	63 and CBFA
268.	AEP, CFE
269.	24
270.	Ppc
271.	CEBS, QKA
272.	63,62,22,24
273.	Series 3, Series 63, Series 9/10, Insurance
274.	31
275.	RFC
276.	CRPS, 24, 53
277.	QPFC
278.	Series 63
279.	Series 24 and 53
280.	Series 2
281.	Series 24, 51
282.	QPFC
283.	Series 8 woring on CIMA
284.	QKA
285.	series 63
286.	RHU
287.	Series 24, 63, MBA
288.	QPA, QKA, CPC, QPFC, TGPC, GFS, PPC
289.	Series 9,10,23
290.	Series 24
291.	31
292.	CBFA
293.	63
294.	CRPC
295.	CRPS

296.	Life Health Insurance
297.	Series 24
298.	26
299.	CRCP
300.	Life Health
301.	AAMS
302.	series 63, life / health licensed
303.	24, 63, CEBS
304.	Series 24
305.	QKA
306.	24,3

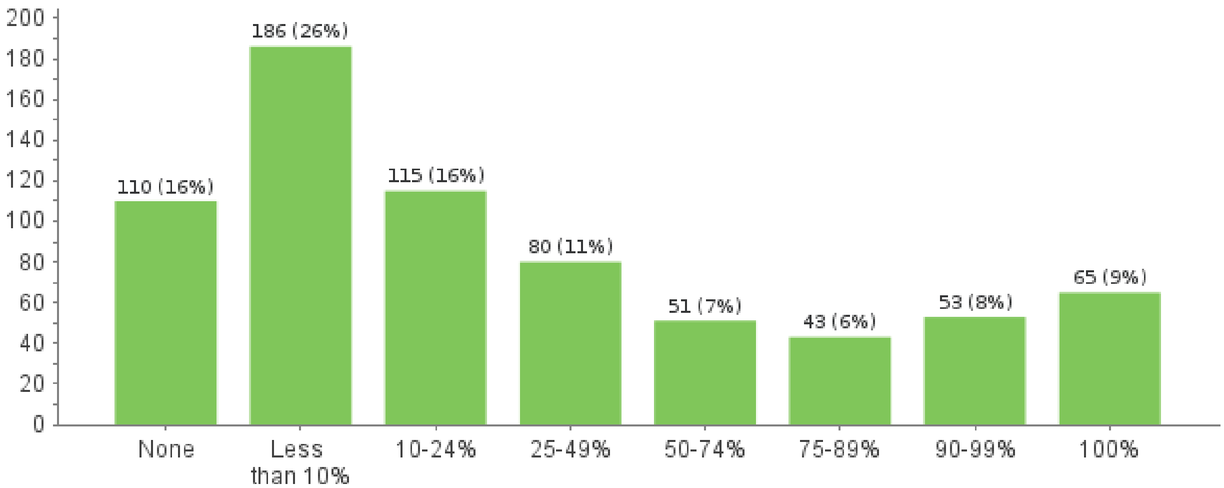
What is your annual production level/revenue you personally generate for your firm?



What is the approximate value of the assets you personally manage?



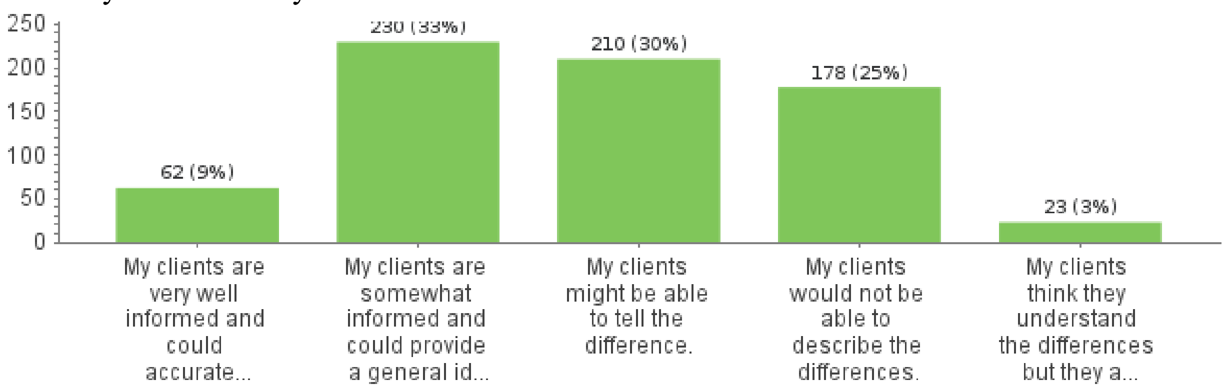
What percentage of your annual business is from 401(k) plan maintenance/advice?



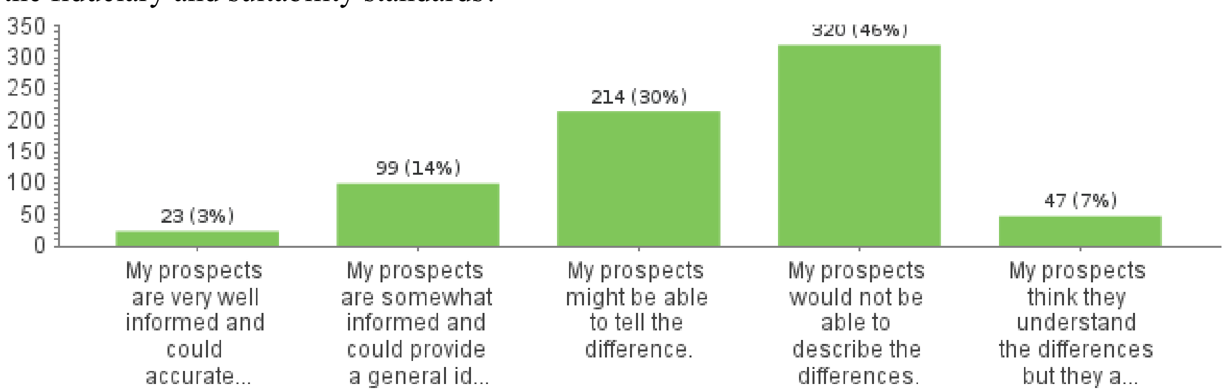
Please indicate how much you agree or disagree with the following statements about your business/practice since you became a fiduciary.

	Strongly Disagree	Disagree	Neutral/ No opinion	Agree	Strongly Agree	Total Responses
My clients are more satisfied now with my services/advice than they were before.	6 (1%)	24 (3%)	225 (32%)	302 (43%)	146 (21%)	703
The amount of time I spend on compliance related tasks has increased.	8 (1%)	52 (7%)	143 (20%)	290 (41%)	210 (30%)	703
I use/recommend a different set of products now than I did before.	39 (6%)	148 (21%)	220 (31%)	209 (30%)	87 (12%)	703
Compliance related expenses have increased.	12 (2%)	75 (11%)	175 (25%)	250 (36%)	191 (27%)	703
My clients are better informed about any conflicts of interest.	15 (2%)	52 (7%)	152 (22%)	322 (46%)	162 (23%)	703
There are products I would like to use/recommend, but I cannot as a fiduciary due to restricted access or cost concerns.	105 (15%)	212 (30%)	233 (33%)	116 (17%)	37 (5%)	703

In general, how well informed do you think your clients are about the differences between the fiduciary and suitability standards?



In general, how well informed do you think your prospects are about the differences between the fiduciary and suitability standards?



Which of the following, if any, do you do with the majority of your clients?

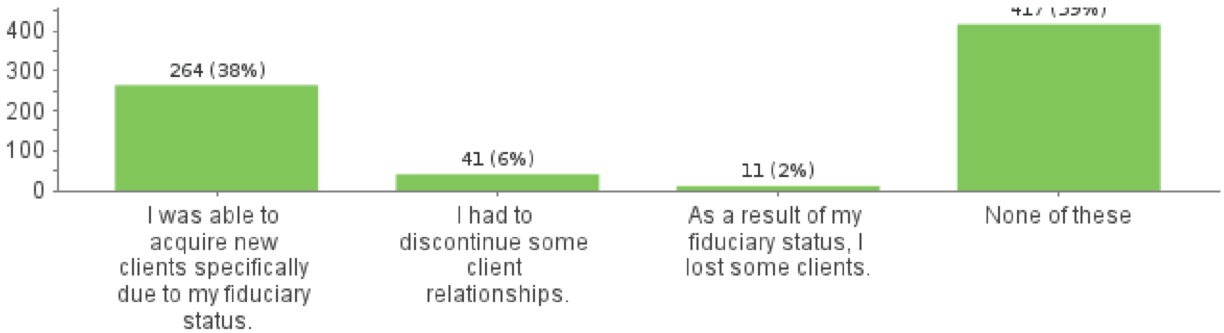
Response	Chart	Percentage	Count
Provide written disclosures regarding conflicts of interest.		59%	415
Explain what a conflict of interest is and/or provide examples.		60%	420
Verbally disclose conflicts of interest at every meeting.		16%	114
Verbally disclose conflicts of interest only at the first client meeting.		11%	74
Verbally disclose conflicts of interest as they arise.		50%	350
Other, please specify...		7%	48
None of these		7%	49
	Total Responses		703

Which of the following, if any, do you do with the majority of your clients? (Other, please specify...)

#	Response
1.	Because we are an RIA with no ability to accept soft dollars we have effectively eliminated conflicts of interest.
2.	Provide a written disclosure for 457 def comp plans and 401k plan, but not to participants. But we give teh ADV form to all Advisory Clients.
3.	advise on conflicts of interest
4.	disclose all fees
5.	We have had no conflicts of interest at this point and seek to continue to avoid any that might arise.
6.	have structured firm to eliminate conflicts of interest
7.	I would always make a client/prospect aware of any conflict of interest
8.	Eliminate any/all conflicts!
9.	I've done everything I can do to eliminate conflict of interest with my clients.
10.	I am not in a sales position at this time
11.	No conflicts
12.	I try and operate as close to "conflict free" as possible, so I don't need to explain.
13.	Avoid COI
14.	We are a fiduciary so we don't have conflicts.
15.	
16.	We do not act in any capacity that could give riase to conflicts of interest
17.	Provide in writing and client signs off if a conflict exists
18.	conflicts of interests are disclosed in writing if they exist
19.	I have no conflicts of interest other than the desire to remain employed

20.	Unknown
21.	I generally have few if any conflicts of interest.
22.	We have no conflicts of interest
23.	I have always placed my clients interest first. I explain either my fee or my commission and give them the choice as to how I am paid.
24.	Reviewed annually
25.	I don't believe that a conflict of interest exists. Actually, if a non-traded REIT can potentially reduce volatility and increase return, I wonder if representatives/advisors who embrace the fiduciary standard aren't using these tools more broadly.
26.	Explain our process regulalry of how we avoid all conflicts of interest
27.	Verbally disclose conflicts of interest at annual reviews
28.	We don't usually have any conflicts of interest
29.	I avoid all conflicts of interest
30.	I don't know of any
31.	I don't believe I have any conflicts of interest
32.	Dont have conflicts
33.	Included within ADV
34.	We are revenue neutral. We receive the same revenue for proprietary options as we do any others.
35.	We are fee-only, no conflicts exist in product selection.
36.	I do not currently have any conflicts of interest.
37.	Disclose annual meeting
38.	combination
39.	I don't recall this occurring in my practice.
40.	Annual review process includes conflicts review
41.	Most of these don't apply to my consulting practice
42.	We send a conflict of interest disclosure every year. Our Compliance office requires it
43.	Annually
44.	avoid conflicts of interest
45.	
46.	Avoid Conflicts of Interest
47.	provide ongoing education on conflicts of interest
48.	when in question

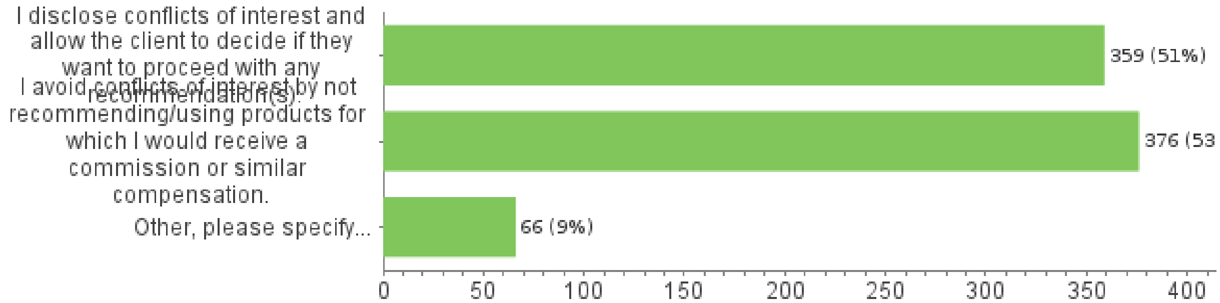
After becoming a fiduciary, did you experience any of the following changes to your client base?



When you receive a new account that was formerly managed by a non-fiduciary, do you usually need to change the product mix specifically to avoid conflicts?

Response	Chart	Percentage	Count
Yes, almost every time.		19%	131
Yes, frequently.		23%	158
Yes, some of the time.		30%	211
Yes, but it is rare.		13%	92
No, never.		15%	106
	Total Responses		698

How do you approach conflicts of interest in your practice?



How do you approach conflicts of interest in your practice? (Other, please specify...)

#	Response
1.	
2.	We do not accept any soft dollar compensation.
3.	Potential conflicts of interest may arise in the implementation phase of the financial planning services we offer but the ability of clients to implement specific recommendations with any firm is emphasized. The fee based financial planning advice must be independent and stand on its own for the fee that is charged.
4.	I advise clients on potential conflicts and how to handle them.
5.	all revenue returned to Plan
6.	We are a fee-only firm, as a matter of principle we do not receive outside compensation for any advice or product we recommend.
7.	I avoid conflicts of by not recommending any proprietary products.
8.	Ensure levelized products are used to avoid conflicts of interest.
9.	as an RIA we don't have this kind of conflict
10.	I disclose conflicts of interest, have a discussion about the conflict of interest and make efforts to eliminate the conflict of interest. Those conflicts of interest that cannot be elimintated, are managed, with the consent of the client / responsible plan fiduciary. Unfortunately there does not seem to be a totally conflict free product. So in a large part, its about managing the least conflict of interest product with informed consent of the client / responsible plan fiduciary.
11.	
12.	Don't sell product - sell service and myself
13.	I avoid wherever possible, but if the correct product for the client is only available on commissionable basis, I waive AUM fees in lieu of the commission, and fully explain to the client, including the potential conflicts.
14.	Build alternative that have no COI
15.	Conflict Free
16.	Our only conflict arises when helping them obtain life, DI or LTC insurance products
17.	As a fee only advisor, we do not normally encounter conflicts of interest unless a related party has a family member on the board or working for a financial institution that we may use
18.	
19.	I disclose conflicts of interest and remove them.

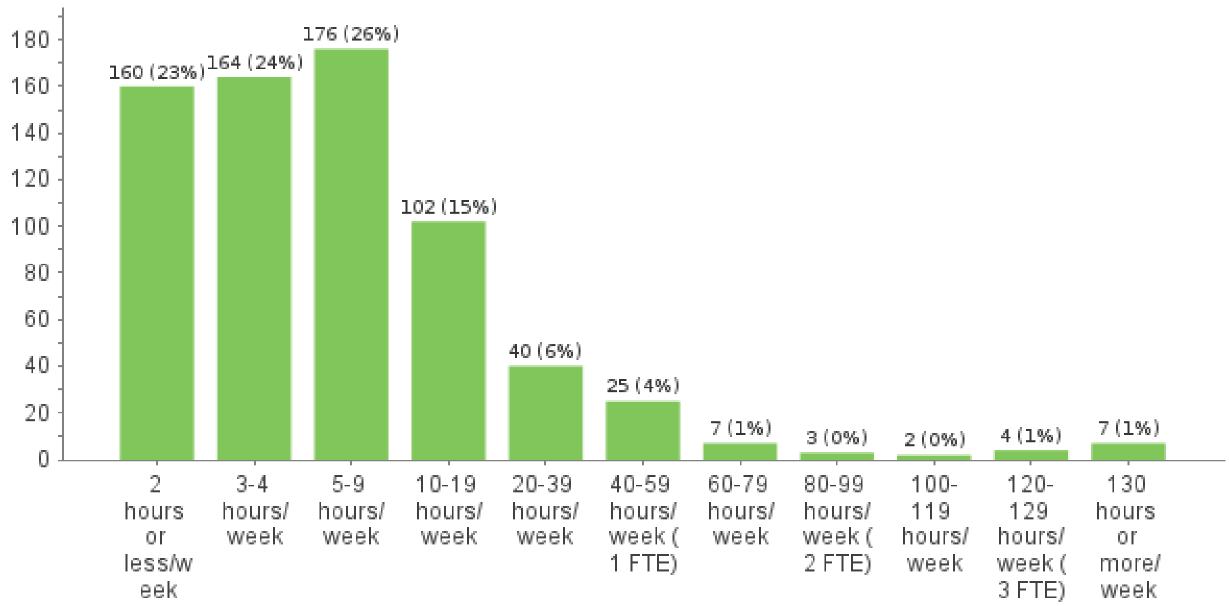
20.	Any commissions are rebated back to the client.
21.	we work for a flat fee that is never impacted by our choice of investments
22.	these don't really apply to us as an NGO since we only serve governments and communities who seek us out
23.	As a trustee, I always try to didclose possible conflicts, but my client as stated earlier, is the Fund Trust that I sit on
24.	I recues myself
25.	
26.	The investment models that are used are designed to avoid conflicts of interest
27.	n/a
28.	I structured my practice not to have any conflicts- 100% independent
29.	There are other conflicts that do not relate to products and these must be disclosed and managed. Disclosuure is not adequate in a true fiduciary relationship.
30.	Our practice is setup to avoid all conflicts of interest which is explained and disclosed to the client.
31.	I help advisors with their challenges in this area since we distribute through intermediaries.
32.	I fit the product recommendation to the client. Many smaller investments are restricted from fee-based fiduciary relationships and are priced best for the client on commission platforms.
33.	I use appropriate solutions that bear no conflict, but are the proper fit for client needs
34.	I CAN'T REC. COMM
35.	net commissions against the fees charged
36.	Flat fees, 100% held away
37.	I don't handle the investments
38.	I disclose COI and describe how I seek to avoid
39.	employee of broker/dealer
40.	As a wholesaler, I do not make recommendations.
41.	n/a
42.	flat fee no commission
43.	In my position at TPA this is not applicable
44.	In instances where a commission based product is suitable I tend towards a "C" share type commission arrangement.
45.	n/a
46.	Products need to be approved
47.	no conflicts
48.	I have never taken commissions, so this conflict does not arise.
49.	Not applicable
50.	
51.	I am not aware of any conflicts of interest in my practice.

52.	
53.	No longer applicable to my business
54.	I avoid conflicts of interest but if one arisss I explain what the potential conflict might be and let then decide.
55.	N/A to my consulting practice
56.	No practice
57.	
58.	n/a
59.	Conflicts of interest do not arise in my practice as I am not a custodian
60.	we have always been a fiduciary and have no conflicts
61.	Disclosures are made internally as well
62.	I am in a salaried position and specific sales of one product over another have NO bearing on my recommendation and NO direct correlation to my compensation
63.	As a fiduciary consultant, I provide clients with insights and direction on how to ensure their retirement plan programs are compliant
64.	RBC is non proprietary so conflicts are rare
65.	I am a home office employee and this does not pertain to me
66.	do not engagge in conflicts of interest; discuss potential for such

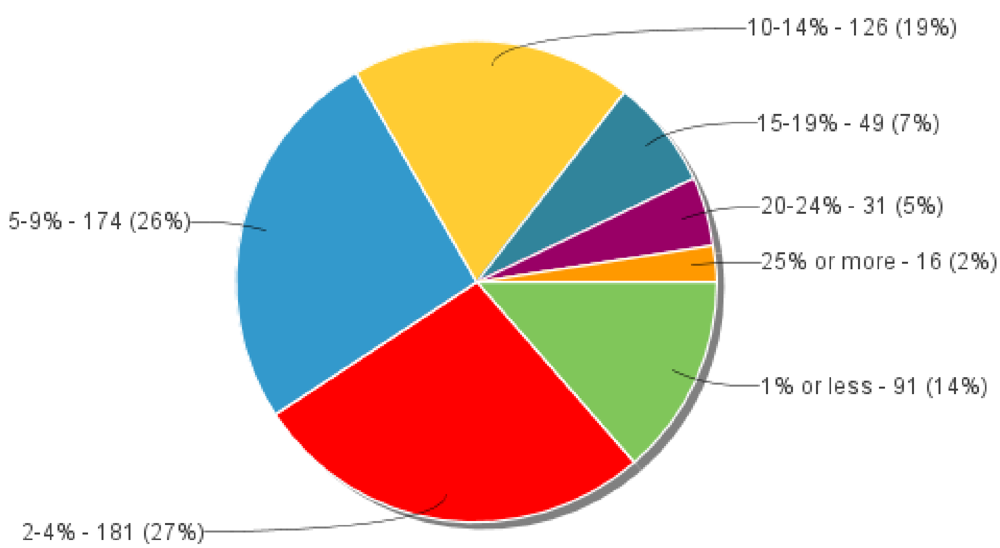
Approximately how frequently do you have a conflict of interest?

Response	Chart	Percentage	Count
Never		52%	368
Occasionally (with 24% or fewer clients annually)		45%	315
Frequently (with 25%-74% of clients annually)		2%	14
Often (74%-99% of clients annually)		0%	1
All the time		1%	5
	Total Responses		703

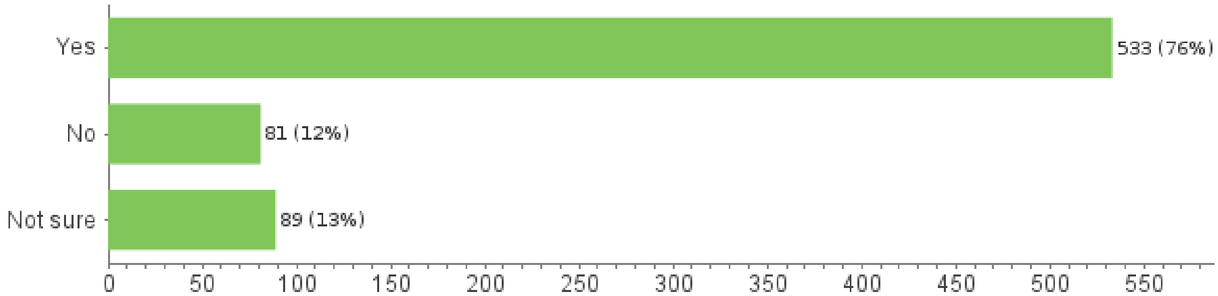
On a weekly basis, approximately how much staff time is spent on compliance related activities? Please include your time and the time of all other staff members.



On an annual basis, how much do you spend on compliance related costs as a percentage of your total revenue?



In your opinion, does a fiduciary standard protect consumers?



Do you believe a uniform fiduciary standard would change the costs of services provided to consumers?

Response	Chart	Percentage	Count
Yes, the cost would increase.		43%	305
Yes, the cost would decrease.		18%	130
No.		30%	212
Other, please specify...		8%	56
	Total Responses		703

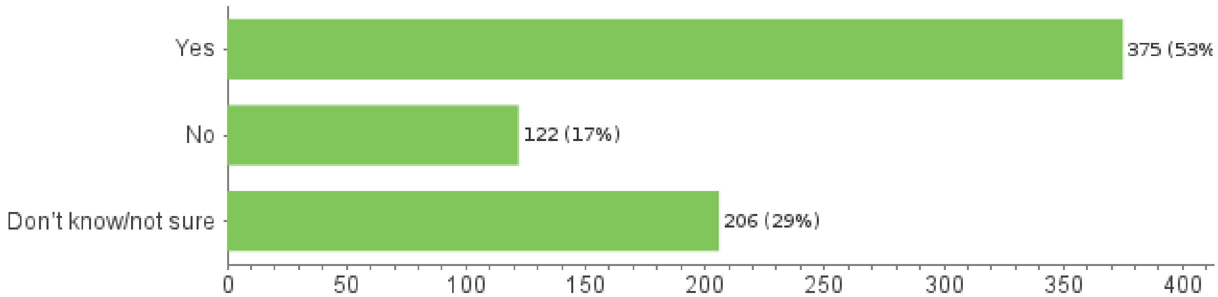
Do you believe a uniform fiduciary standard would change the costs of services provided to consumers? (Other, please specify...)

#	Response
1.	Don't know it depends
2.	Probably not from firms like ours that have operated within a fiduciary model for years. For others, transferring commission based sales reps to fiduciary standards will affect their costs.
3.	Although compliance costs for some may increase the client will be better served and financially better off
4.	don't really know
5.	not sure
6.	It depends on what that standard is and how it is measured/enforced.
7.	I don't think I know yet but it appears it might increase a bit
8.	Don't think it woudl be significant if there is an increase. Clearer definitions or policy would be very helpful, but government rarely makes policies clear or easy to follow.
9.	Not sure
10.	Yes, in the long run, decrease costs. Possibly, the service providers would find that since they would not need to financially incentify brokers with upfront commissions to distrubute their insurance/financal product, the service providers may have less expenses and actually be able to reduce their costs and expenses to the plan sponsor over time; influenced by open markets and competitive reasonable pricing. Less legal conflict of interest compensation paid to dabbler brokers, means more retained earnings for plan providers, which allows them to decrease total costs which can be driven by competive markets seeking reasonableness.
11.	Expect some costs to increase and others to decrease
12.	Would increase for small clients, same for larger ones
13.	no one knows for sure
14.	unsure
15.	Too many unknowns. Who would be in charge. A broker dealer with reg rep req haircuts etc
16.	It would probably drop and then normalize somewhere in between
17.	?
18.	yes for some, but not for us.
19.	Don't know

20.	I have always approach my client relationships from a fiduciary standpoint. and therefore would not expect to see any significant changes in my practices cost structure unless there were increased reporting requirements.
21.	Yes but it is a necessary part of the industry
22.	depends if the wirehouses succeed in watering it down
23.	not sure
24.	It would depend on what the uniform fiduciary standard was.
25.	Advisors and brokers likely to absorb cost increase.
26.	in some cases it might
27.	It would increase not because it inherently costs more, but because Wall Street firms want to maximize their profit at basically any cost.
28.	Not sure - we are based in New Zealand where regulation only came in 2 yrs ago, so not sure how this would apply here in NZ
29.	People with less will not be able to afford professional advice as costs would rise
30.	not sure
31.	In some cases, costs would increase, in others, decrease. For a net even effect, if not overall lower to consumers. I believe it cuts the profits to the insurance companies, however.
32.	not informed enough
33.	don't know
34.	depends on the client
35.	Not necessarily, it could, but it might not.
36.	Yes, It would increase the cost to some consumers
37.	not costs, as much as advice rendered wpould diminish
38.	not sure
39.	depends how it is driven... if vit is "rules based," it is not worth any thing as that comes with negative motivation. Our vindustry and government need a "baseline overhaul!!"
40.	not sure
41.	I can't comment without more data.
42.	Cost would initially increase, then decrease as companies would create services to do what I am more efficiently.
43.	Not sure; have not been following topic close enough at this point
44.	If Finra and or the government is involved, the costs will always go up and value goes down.
45.	it would change revenue and to the extent necessary the cost. The client can find alternatives that do not raise costs.
46.	undetermined
47.	In some cases, not for me.
48.	it would hurt smaller investor
49.	not sure

50.	Yes, costs would generally decrease, but the wirehouses would commit endless resources to fight uniform fiduciary standards
51.	I am not at all certain about the impact.
52.	Unknown because of client variables
53.	Costs would increase for people used to paying commissions.
54.	not sure

Assume that a harmonized fiduciary standard increased the cost of services to the consumer. In that case, do you believe the benefits to the consumer of working with a fiduciary outweigh the downside of consumers being priced out of the advice market?



(optional) Is there anything else you would like to share in regard to the SEC's evaluation of harmonizing the fiduciary standard?

The 195 response(s) to this question can be found in the appendix.

Category	Chart	Percentages	Count
Able		2%	5
Actually		3%	6
Believe that Harmonization		3%	6
Brokerage		3%	6
Change		5%	11
Compensation		2%	5
Compliance		4%	9
Doing the Right Thing		3%	7
Held		5%	10
Legislation		2%	5
Problem		2%	5
Protect Consumers		3%	6
Retirement Plans		4%	8
SEC		8%	16
Simple		4%	8
Small		5%	10
Smaller		3%	7
Stop		3%	6
True Fiduciary		3%	6
Watered		4%	9

Appendix

(optional) Is there anything else you would like to share in regard to the SEC’s evaluation of harmonizing the fiduciary standard? |

#	Response
1.	"Harmonizing the standard" is unnecessary. brokers need to serve the public as fiduciaries, applying the current standard. Period. No "harmonizing" required. R
2.	A fiduciary standard would be good for all.
3.	A hormonized fiduciary standard would place an onerous and costly burden on advisors and clients would not understand nor be any better served by more regulation.
4.	A never ending cycle of regulations - people need to be self responsible, do their own vetting, gain enough information to make a decision that suits them, rather than run with the lemmings and expect big brother to save my stupid a__.
5.	A single standard would benefit everyone. Consumers are often mislead by sophisticated sales materials implying a fiducary standard that does not exist.
6.	A study ought to be done in earnest to compare a 7% commission to a 50 bps fee structure over a 15 year period. Start with a zero balance and have $1458 monthly deposited for 15 years in an S 500 index fund. Which would cost the client more, fee based or commission? A uniform fiduciary standard for RIAs and RRs for accounts under $2M ought to be consider. Qualified investors are assumed to have the where-with-all to know in what they are investing.
7.	Advisors/RR's need o re-adjust there thinking on their worth. The commissions and fees many charge make their value circumspect. The best managers in the world only outperform by 2%. If you are charging a 2% fee that, in my opinion is a breach of fiduciary duty in and of itself.
8.	As an expert in the Securities Ind. (I testify in arbitration and court) mostly for the claimants the first thing that the respondents attorney establishes on cross is that his client is not a Fiduciary by Law. They use this as a defense for their action.
9.	As it relates to Qualified Plan Advice, there should be one standard only, and that is the fiduciary standard. There are too many inherent conflicts of interest with the suitability standard especially when brokers are giving fiduciary advice but are waiving all of their responsibility for it through their agreements. There are too many people overstepping their boundaries and clients have a very difficult time understanding the differences.
10.	BD's Licencees for the most part do not get the cooperation from their BD's.
11.	Being a FIDUCIARY and offering clients "low-cost" investment options (eg. Mutual Funds with low expense ratios) are still available regardless if you are a B/D or RIA. Firms still receive trails regardless of their level of client care and do not disclose these trails to clients. In fact, clients do not want to hear they are paying extra money to their advisor. Many feel this is how a broker gets paid (customary and acceptable) and they get treated well (they TRUST their advisor, and feel they are being well taken care of - and they do not even compare options. For example, a client could be very happy earning 6% a year, not knowing they could be making 10% or more, at lower risk).
12.	Caveat Emptor is a riduculous standard for any professional in the fiancial services field.
13.	Clarity would be great.
14.	Clear communication to Plan Sponsors concerning whether their Advisor is a Fiduciary to the Plan and what that means would be helpful - in a manner that is easily understood.
15.	ETHICS IS THE KEY TO THE SECURITIES AND INSURANCE INDUSTRY AND THAT INCLUDES AN INDIVIDUAL WITH ONLY AN INSURANCE LICENSE WITH FEW RESTRICTIONS. IF IT REQUIRES A FIDUCIARY STANDARD FOR OUR INDUSTRY AND I BELIEVE IT DOES, THEN GET ON WITH IT.

16.	Every financial advisor should be a fiduciary
17.	Every transaction should fully disclose how much the client pays in total fees or commissions and who is the recipient by approximate dollar amount of the total costs/fees paid by the client including asset generated fees.
18.	Focus should be on what is correct/appropriate for the client. This focus on suitability versus fiduciary standard is missing the point. Another example of the CFP designation driving the train. The idea that a CFP with very little education is a better advisor to a client is bogus.
19.	For most of us in your survey, we will work with larger clients and the new standards are not much of an issues as we already practice them. I am concerned that the low end of the market will get pushed out of getting any advice at all. A portion of those that might get very good advice on a commission/sales basis may no longer get advice at all. That is NOT a good outcome.
20.	Harmonizing the Fiduciary standards will bring transparency to the process so plan sponsors have the power to make decisions that are in the best interests of the Plan. You cannot serve two masters, isn't that what ERISA is all about?
21.	I am a recent designee. I have yet to see how much my business will be impacted by my new status as a fiduciary.
22.	I am in favor, but in the 401(k) world, costs to plan sponsors will go up as revenue sharing funds are cur out. The admin costs are masked by those revenues and plan sponsors are not happy seeing those costs go up.
23.	I believe many of advisors in the industry are already acting as Fiduciaries even though are firms may not admit it.
24.	I believe most advisors act in a proper manner in the clients best interest regardless if they hold an official fiduciary designation or charge fees over commissions. I knwo plenty of RIA,s and other's who hold themselves out a better because of their credentials who don't practice what they preach. That goes with those who profess they are a fiduciary, hold the AIF,CFP ot CIMA
25.	I believe that a uniform fiduciary standard would be beneficial to most consumers. However, I think that consumers need to be more educated about the choices available to them and what the differences are. Consumers SHOULD have the choice of whether to work with a fiduciary or not. Caveat Emptor.
26.	I consistently am frustrated with the lobbying and underlying companies that ignore what's best. I could only hope that the playing field for consumers would someday be equal and understood.
27.	I do not believe a uniform standard can be applied because brokers cannot be fiduciaries, and wirehouse firms cannot or will not remove selling agreement related conflicts from their models.
28.	I do not see that managing a participant's IRA account is a conflict of interest in our industry. I understand that the gray area exists, and that there are unscrupulous brokers out there that will take advantage of a situation in order to earn additional fees. However, it will not help the individuals out there that are looking for advice, but cannot receive it due to the restrictions being imposed by the industry. I think things should be left alone and stay as they are.
29.	I do not support a "harmonized" fiduciary standard. I support a "bright line" between RIA and Broker/Dealers. B/Ds sell products and they have a role to play in the market. RIAs provide fiduciary advice and they have a role. There should be a prohibition in allowing a B/D / RIA situation. One person or firm should be licensed for one purpose only. Should not have dual registration. This confuses the marketplace.
30.	I do not want to see the fiduciary standard under the 1940 Act to be compromised.
31.	I don't believe BDs need to be fiduciaries but they clearly should indicate they are not
32.	I don't believe it is in the best interest of consumers to impose this standard. I think it would be Be more effective to have two different licenses For financial professionals that differentiate The two roles.

33.	I don't believe it is necessary to have brokers be fiduciaries
34.	I explain the difference between "suitability" and fiduciary requirements at all my seminars or meetings with prospects. There is a serious lack of knowledge about the fiduciary standards with investors and they need to be educated.
35.	I feel we are continuing educated to an excess. I appreciate life long learning, but there is overlap amongst regulatory agencies and I spend too much time reviewing the same information. As an AIF I believe this should solve for a number of requirements. State/Federal-licensing and product requirements.
36.	I find it laughable that there is an assumption that fee based advisers (of which I am one) are assumed to be "conflict free" and that their advice is somehow "better" or more "trustworthy" than a commission based adviser. I also disagree completely that a conflict of interest in any way arises due to the use of a commission based product. Nearly all 401k products are offered in a revenue neutral model.
37.	I have always operated in the best interest of my clients...if I wouldn't buy the investment/service I won't sell or promote it.
38.	I think it is impractical. On a commission basis, to have an ongoing responsibillity does not make sense, it could be used by certain reps to bend the rules and increase their revenues all while acting as a fiduciary.
39.	I think it is very important that the fiduciary standard NOT be watered-down to accommodate brokers/sales professionals. I would much rather see the high standard remain and a requirement be imposed on brokers that they must disclose that they are not working in a fiduciary capacity and refrain from calling themselves "advisers". This (I believe) would alleviate confusion with the general consumer.
40.	I think moving towards a Fiduciary standard is important and will add credibility to our industry. The fact it has taken this long is somewhat troubling. I mentioned it in a previous response but this is how I have always operated but know that is not the case for all RIA's. I would just hope that cost of reporting requirements are seriously examined before anything is implemented. Thanks
41.	I think that consumers are confused because there is not a uniform standard.
42.	I wonder whether regulatory authorities in the legal and medical matters would permit deharmonizing current fiduciary standards to permit an analog of suitability to any situations ? and, whether and why the financial services field should be different ?
43.	I would like to air a public service announcement on my weekly radio show. The public and our financial planning brothers and sisters are very ill informed.
44.	I would need to have a better understanding of exactly what this means. I am a fiduciary for all of my clients and do not support revenue sharing or commissions of any kind. However, I do not support forcing other advisors to operate in the manner that I do.
45.	I've been involved in both the B/D side and the RIA side, and the RIA side with a fiduciary standard is a better business model for consumers. At the end of the day, it's doing what's best for the client, not just what's suitable for the client. Without such a strong lobbying effort, the B/D model would've fallen out of existence years ago.
46.	If you give financial advice to a consumer you are a Fiduciary whether you call yourself that or not. It is not just a regulatory standard, it is a moral standard.
47.	In my opinion serious breaches of fiduciary responsibility are extremely common in the industry, both by investment stewards and investment advisors. Existing rules and standards are routinely ignored. Yet, there seems to be no consequences. More rules mean little if nobody follows them and there are no consequences for failing to abide by the rules. The only people that are likely to follow the new rules are the ones that are already adhering to sound fiduciary principles because they are the only ones who care.

48.	In my opinion, most if not all companies/individuals that are receiving financial advice from an advisor/broker are under the assumption that the advice they are receiving is being provided in their best interest and is not subject to any conflicts of interest. There is no distinction being made between the suitability and best interest standards.
49.	It must get done!!!
50.	It needs to be done in a comprensive manner 408(b)2 amd 404(a)5 dod notheing but confuse people
51.	Just Do It!
52.	My opinion is that you cannot create rules to regulate bad behavior. Giving an advisor the flexibility to serve all levels of clients with a mix of fees and commissions allows us strive for a common goal- Helping our client achieve a comfortable retirement. A fiduciary standard is a best practice, but in most cases, the average consumer does not understand the difference between suitability and fiduciary status, even when it is explained clearly to them.
53.	N/A
54.	NO
55.	No
56.	No
57.	No
58.	No
59.	No, keep up the work!
60.	Not at this time
61.	Not at this time.
62.	Not at this time.
63.	Please do not harmonize the standards between brokers and advisors. There are needs for both business approaches. Cost is not the only factor. Temperament and style and even time available from the client's perspective can make a broker approach more appealing and valuable to people. There is also a need to keep and encourage a culture of diversity to keep a marketplace in-place rather than harmonization resulting in commoditization of advice. Variety and dangers and opportunities create other benefits for the society as a whole.
64.	Please take the time to know the relationship between successful clients and advisors by personally observing them in the real world. We know where the abuses are that need to get corrected. It can be done without harming the client or advisor "good guys".
65.	Questions geared toward the answers someone wants! Hard to implement a standard if you don't know what its purpose is.
66.	Regulate the insurance industry "fixed" indexed annuity salespeople FIRST and foremost its the most abused I come across.
67.	Require disclosure by non-fiduciaries.
68.	Stricter standards and oversight need to be implemented. Fiduciary standard should be the baseline for working with investors.
69.	The Dutch have it right. Commissions on financial services should be banned. Talk to Congress about it.
70.	The Fiduciary Standard needs to be principles/leadership-based, not rules-based. So much is just for show or to follow some poorly thought-out rule. Dodd-Frank is a joke and is a great example of this. One must follow their conscience and their heart as much of this is "common sense." Rules-based applications do not work in the real world and I fear that the fiduciary standard we get is something that will allow large institutions to "skate" as they

	almost aways have. I have a hard time even using my AIF desination within my own firm, thus it is almost a waste of time to have. Bottom line, nobody seems to care about the issues that really matter and nor do they understand them either. People need to be inspired and there is little inspiration in a rules-based environment only the appearance of "looking busy."
71.	The client has no idea what a fiduciary standard is. Unless you advertise on television to educate the end consumer, I don't think it matters.
72.	The cost of ANY regulation and the potential benefit it will have needs to always be at the heart of any regulation. The "spirit" of the law is often well intended, however application does not always capture the intent. I find it strange that our society has conceded to creating omnibus regulation and policy to control the situation (including the compliant and proper professionals) instead of allocating more resources to punishing those who's actions/business practices are questionable. Raise the consequence to the action and it should take care of itself. It would be nice to live in a society where people are truly accountable...
73.	The issue of increased cost to the consumer is really misleading in the discussion. Either you do what is in the best interest of the client or you don't. If you don't you have increased the cost to the client. If you do what is in your best interest you increase the cost to the client. By letting the commission based side of the industry control the argument around cost we miss the point of the fiduciary's role in acting in the best interests of the client.
74.	The real issue is not the standards and regulations as it is whether the rep is here to be of service or just to make money. Too many RIA/IARs are in the business to gather assets and not be of service to the client.
75.	The should do it. It will hopefully put the proprietary shops out of business.. Their business models can not afford the idea of NOT selling their own products.
76.	The standard for fiduciaries is already present in centuries of common law, employment law and case law. RRs are employees of their BD and their fiduciary duty to their employer is part of the reason the DB has supervisory authority. Same applies to insurance agents. To redefine this issue for marketing purposes will not improve the public's understanding of the issue. A "standard of care" is not the same thing as subordinating one's interest to the welfare of a client. For fiduciaries, that is a duty clarified in case law. In the world of "let's pretend" every RR or insurance agent is focused "solely on the client's benefit" and is compliant with a "fiduciary standard."
77.	The survey language assumes I started out earning commissions and then switched to a fiduciary model. This is incorrect. Other questions assume I am receiving commissions from certain products. Also incorrect. I am strictly fee-only, and have been ever since I entered financial services.
78.	The uniform definition is needed. The landscape for financial advisers is confusing even to the experienced investor. The cost may go up for the consumer in the short run, however, I do believe that these will reduce over time.
79.	There needs to be an annual disclosure to 401k plan sponsors for those non-fiduciaries receiving commissions that they can not render investment advice to the plan or participants because of potential conflicts of interest. Many of these advisors are providing sponsors with advice to fund lineups and to employees in one-on-one meetings. This annual disclosure should be a condition if the commission model remains. commission model , if
80.	This issue is " Much ado about nothing".
81.	This survey no longer applies to my business as I am no longer employed in financial services and have not been closely following issues pertaining to the fiduciary standard.
82.	To the investing public this is a very subtle difference that 99% of them will not focus on or even understand once they do. By all means raise the standard for brokers, but don't dilute the high fiduciary standard that currently sets advisors apart.
83.	Too many nit picky rules when the big stuff - Gov't over spending, wars, unfunded liabilities etc have a greater impact on my clients returns than fee disclosures,prospectus signing, swap letters etc. Over regulation is killing us all and have little effect on clients investment results. Few new people can start in this career field and hope to survive. The big get bigger and all others eventually shrink.

84.	While I may think adoption of the fiduciary standard is the right way to go, I don't think client's will understand the difference and be willing to pay directly and at an appropriate level. I get quite the amount of push back on fees assessed on AUM and almost NO pushback on products that carry commissions. There's a client disconnect between paying once for a mutual fund on initial purchase and continuing quarterly AUM fee collection.
85.	While the goal of having a fiduciary standard is admirable. Th UK, Australia dn others have tried it and the people needing the advice and services now provided are hurt the most. If the commission sales person is not performing to the standard, the terminate the person, not the industry.
86.	Why should financial advisors provide a standard of care below that of physicians?
87.	You are talking about a fiduciary standard without defining it for us. I'm pretty sure I understand what you mean by it, but a clear definition might have been helpful to some taking this survey.
88.	You can't regulate good behavior. There, unfortunately, are fiduciaries who either don't know what to do or just don't hold their clients best interest above their own. Generally speaking, I don't see a difference between fiduciary practices and non fiduciary practices. Some advisors do a good job and care about their clients, some don't.
89.	move forward not bacward. conflicts of interests are bad for clients, and the large brokers thrive on them because they rake in the fees by double dipping and decieving clients.
90.	no
91.	no
92.	no
93.	no
94.	no
95.	no
96.	not at this time!
97.	[Able] It is very important for the fiduciary standard to remain the highest level of care. If the financial industry maintains the suitability standard, there needs to be required disclosures to all clients and prospects IN PLAIN ENGLISH describing the professionals use of suitability standard vs fiduciary standard. The client/prospect needs to understand exactly what this means and be able to make an educated decision. Many financial professionals don't know the difference.
98.	[Able] There must be enough flexibility to be able to fit each individual as an individual, not a one size fits all
99.	[Able], [Actually] I believe that most financial service providers are totally conflicted and they will never actually be able to meet a fiduciary standard. In the end, it will just cheapen the value of a fiduciary standard for those who can and do provide that standard to their clients.
100.	[Able], [Smaller] The regulatory environment is killing the independent and smaller advisors and in my opinion, is not doing anything to protect the general public from those who are perpetrating fraud or stealing from clients. It is a tremendous amount of paperwork and for smaller independents, it is a killer. It seems that we eventually will end up with nothing left but huge megafirms and like the banks, they will be able to throw their weight around.
101.	[Actually] I actually think once consumers know what they are paying, they can make informed decisions. In my practice, we talk about fees for the level of service a client receives. We then compare our fees against those who do not disclose them. Frequently, they discover that what appears to be an expensive service is in reality often less expensive when compared to the "undisclosed" alternatives, due to turnover, 12b-1 fees, and the like.
102.	[Actually] I am an AIF Designee, but as a Trustee on a Public Fund Trust. Therefore, some of the answers I have provided in this survey might not represent the actual answers needed.

103.	[Actually], [Compliance] The argument that increased compliance costs will force advisors to abandon lower net worth clients is false. The issue is disclosure of the higher fees that investors unknowingly pay now but would not pay if disclosed. I do think that commission salesmen should be allowed to operate but under a strictly regulated exemption that precludes them from holding themselves out as investment advisors or offering investment advice - the old Merrill Rule but this time truly enforced. Commission salesmen cannot operate under a fiduciary standard unless that standard is watered-down to the point of being meaningless - actually a worse situation then we have presently given the government imprimatur that this would still be a fiduciary standard. The government should not infer to the public that even with a fiduciary standard they (the public) can withhold skepticism. The public needs awareness and education about conflicts of interest more than it needs disclosure statements (which are unlikely to be read or understood) or the false security that somehow the government will protect them from unscrupulous salesmen and scam artists.
104.	[Actually], [Compliance], [Small], [Change] The current marketplace fiduciary pressures are showing signs of major fundamental changes to the industry. Recent newly attained clients have exhibited a high level of interest in the fiduciary standards approach to advising compared to those not actually engaged in the practice. It appears both large and small companies are asking for the standards in turn our firm has seen and increased our marketshare improve fifty percent in business this past year. Market forces will make the shift occur while minimizing the number of advisors from this part of the industry. We are already experiencing the change. Having a uniform standard doesn't necessarily mean improved compliance instead the compliance will be superficial increasing costs as an indirect effect.
105.	[Actually], [True Fiduciary], [Stop], [Change], [SEC] The SEC should only effect a true fiduciary standard that lives up to the age old meaning of fiduciary -- It should not "harmonize" brokers and RIAs, NOT effect a pseudo fiduciary standard that is actually suitability under a fiduciary label. THE SEC should live up to its mandate of investor protection (and fix some of the mistakes it has made -- allowing titles and roles to blur so as to confuse investors about whom they're dealing with; the whole broker exemption is a fiasco and should be fixed esp since it was overturned by courts years ago. Think of this as: what enables investors to have the best shot at saving and investing for retirement or any other reason -- not as whether BDs have to change what they do to actually work on their clients' behalf. Investors are being treated by non-fiduciaries as cash cows -- or worse. That has to stop. Put in place a true fiduciary standard as in the '40 Act or the more stringent ERISA. Make everyone who provides advice abide by this true fiduciary standard. If BDs, insurers don't want to do this, put "sales" as their title, forbid advice, and ENFORCE the fiduciary standard for all advice providers.
106.	[Believe that Harmonization] "Harmonization" will not work if "disclosure" is the bar. I do not believe that advisors can disclose away their obligations to the client.
107.	[Believe that Harmonization] I do not want a harmonized standard that is weaker than the current standards. I believe anyone who provides advice to consumers should be a fiduciary. The product manufacturers do not have to be a fiduciary, but all advisors, planners and consultants. Pharma companies can produce whatever drugs they believe provide a benefit. But it's up to the doctors to decide whether the drug will work for their patience. Our industry should work in a similar way. We need more professionals and less sales people. The sales people can be the product wholesalers trying to get the fiduciaries to use their companies products.
108.	[Believe that Harmonization] While the idea in theory is sound, i dont believe that it is a practical action. Harmonizing the fiduciary standard could dilute the credibility of becoming a fiduciary. Those that feel it is an important credential to obtain have already sought to become fiduciaries.
109.	[Believe that Harmonization], [Brokerage] Harmonization? Will be impossible for those pursuing the "suitability" standard. After all, suitability really only means two things: is the client alive and can they pay. Fiduciary - work for the client

	Broker - works for the brokerage firm Do not agree that the BD will take the steps to adopt a fiduciary standard - in fact, they are fighting it. Harmonization is a myth! I do not believe that harmonization is possible. Let's move on to the real issues with our clients!!
110.	[Believe that Harmonization], [Brokerage], [Compliance] It is only speculation at this point as to what the costs may or could be for a fiduciary standard. The brokerage model with a suitability standard has rigid compliance standards for corresponding with clients and the fiduciary standard has rigorous disclosure standards. While surveys like this attempt to elicit feedback as to what we believe may happen to cost structure for delivering services, we won't know this until we have adopted a harmonized set of standards. The clients/ public will be much better served with a fiduciary standard and more transparency and open disclosures. What the cost structure will be is not yet know. The regulators should adopt the fiduciary standard on the benefits for the public which will be greatly enhanced.
111.	[Believe that Harmonization], [True Fiduciary], [Watered] I seriously question whether it is at all possible to harmonize a fiduciary standard with a broker/dealer business model. I believe the industry will only accept an implementation in which the fiduciary standard is effectively watered down, which will thus damage the value of a fiduciary standard for true fiduciaries, and in the eyes of prospective clients.
112.	[Brokerage] I think that while a brokerage product that increases relative illiquidity is a risk factor, there are a number of considerations that mitigate that risk (potential reduction of volatility and lower correlation), and so the general presumption that such choices are "risky" or a "conflict" is incorrect.
113.	[Brokerage] There are inherent conflicts between acting as a fiduciary and receiving commissions for product sales. It may be basically impossible to harmonize a fiduciary standard across lines of fee only to hybrid or brokerage employed advisers. Instead why not bring heightened awareness and clear communication about the differences. A weakened standard is not a fiduciary standard!
114.	[Brokerage], [Smaller] If advisor are mandated to become full fiduciaries for each client, it will squeeze any services to the smaller clients out and force them into using a do-it-yourself brokerage
115.	[Brokerage], [Watered] Do not water down the standards to accommodate the brokerage houses. Their model and what they peddle is not the best for the client in my opinion.
116.	[Change] I did not like the survey as it was to black and white. Fiduciary service should be the standard across the board instead of people trying to hide behind the "I'm not a fiduciary" statement. Since it should be the norm, costs should not change. Sorry but some of the commission schedules are crazy and conflicts of interest are insane.
117.	[Change] Make mandatory changes to Titles, then apply standards to each
118.	[Change] The "since you became a fiduciary" questions need to have one more choice, namely "I/we have always been a fiduciary". Practicing as a fiduciary the greatest motivator we have! Assuming a REAL fiduciary standard is mandated for the industry, we believe it will be years and years to become a reality - culture of non-fiduciary is very deep and will not change overnight, regardless of the law.
119.	[Change] The notion that the fiduciary standard, as defined now, would decrease consumers' access to advice is patently false. There are plenty of advisors who are willing to work with the "middle market" on a fee-for-service basis to provide both financial planning and investment advice. The only change is that the client will a)know what they are paying for the service provided and b) receive ongoing service versus the current situation of paying a commission for the investment and then never hearing from their advisor because they have no more to invest and thus no more commissions to generate. I can be reached for further comment at 530-297-7441 or joel.larsen@nfadvisors.com.

120.	[Change] When I started my own IRA in 1975 I completed front and back of a one sheet application. Now the requirements are so time consuming and ever changing that I am not interested in accounts of less than $250,000. I just cannot justify the time. I have a sizeable retirement nest egg now that I would not have if today's rules prevailed in 1975. Whatever you do, keep this in mind as you attempt to find the right balance. These new rules will not deter bad people but great advisors can no longer help the people who need us most.
121.	[Change] Working only in the best interests of the client is not a big deal. We all should be doing it anyway. Why there is opposition is beyond me. It is like telling the truth. We should always tell the truth and those times when we can't are such a minute concern that they don't count. The industry is afraid of the change but they really have nothing to fear.
122.	[Change], [SEC] I am not sure that the SEC understands how little clients understand about the service they now receive or how things could change, but they do not understand conflicts of interest nor the fiduciary standard they should receive and how it will impact them for the better.
123.	[Change], [SEC] new rules will not change bad behavior; the fiduciary standard will not force an unethical person to change; it will only give them another title to hide behind...and they will! the SEC should enforce the rules currently on the books more vigorously, and the governing body for RIA's should do likewise........
124.	[Compensation] I believe in full disclosure of all compensation either fees of commissions or indirect compensation. Even fees are a conflict of interest in the absolute sense. Clients are the best judge of the value of services rendered. I believe that should a broker sell from inventory, the dollar amount of firm mark-up profit should be disclosed.
125.	[Compensation] I don't think priced out of the market is a legitimate concept. A sales person who fully discloses their compensation does not mean that they are charging too little. Nor does secret compensation mean the public is getting a good deal. Only those with a secret would want to prevent full disclosure in terms the public can use to judge and make a decision.
126.	[Compensation] The key is avoidance of conflict - but explaining where conflict exists. I don't necessarily think that means compensation for every recommendation should be level. The advisor must determine what is in the best interest of the client, and through education, allow the client to make the final choice on investment options.
127.	[Compensation], [Smaller] The Fiduciary standard makes sense for larger accounts, but would likely be more expensive or limit services provided to smaller accounts. Most fiduciary advisors work with higher net worth individuals; who will assist those with smaller dollar accounts. I think disclosure of how compensation is earned would be sufficient in the lower end market.
128.	[Compensation], [Stop], [SEC] Once a registered representative gets "boxed" into a personal lifestyle of making security and insurance sales on a suitability basis, with upfront commissions and quarterly 12b1 fund revenue, its understandable why they do not choose to stop their legal conflict of interest business, take a cut in pay, and be in the clients absolute best interest by becoming an authentic fiduciary. Their cash flow, personal life style, goals and dreams are built around a sales commission world. Its transparently clear why this debate between suitability vs fiduciary standard is simmering, its a matter of compensation - that's all. The very disappointing part of all of the debate is the seasoned professions, whom we may have respect for, make their erroneous cases based upon data mining, which serves to confuse the consumer even more, when in reality, a uniform fiduciary standard in its un-watered-down phase, is superior to any type of harmonized fiduciary standard. We live in a world of "harmonizing" words, but in reality, it comes down to form over substance - what is being said and what is being delivered. American's are confused about professional designations,trust,the big brand investment / insurance pitches in the media and discussions by the regulatory bodies. This atmosphere of confusion is ideal for a watered-down-harmonized fiduciary standard to be stamped in place and the consumer would not even know the difference. By and large, they just don't know. Unfortunately, its still all about the "Big Sales Job" being delivered by sales professionals being coached by well paid professional sales coaches, instead of the general public really understanding what the 1940's IAA Act and state common law really stands for - the authentic fiduciary. Its very disappointing to see how the SEC / DOL /FIRA debate is being heavily influenced by the deep pockets of lobbing firms. Americans deserve clear, un-spun, unbiased factual education to let them decide if their absolute best

	interests are being served.
129.	[Compliance] There is already adequate compliance regulation without adding more which is costly administratively and time consuming and unnecessary.
130.	[Compliance], [SEC] Please forgive me for not understanding this SEC evaluation - I understand this is a US based issue and does not apply to us advisers here in NZ therefore my knowledge on compliance really only relates to the current regime in New Zealand and my past experience of being in the UK
131.	[Compliance], [Watered] Bad actors do not follow standards, if everyone is perceived as a fiduciary the advantage of voluntary compliance to a high standard is lost. Clients will have an even more difficult time identifying a good advisor. The watered down harmonized standard will only help a damaged client after the fact during a lawsuit.
132.	[Doing the Right Thing] I believe many clients would benefit from a uniform fiduciary standard. I don't believe many of them understand what it all means. At the end of the day, it all boils down to integrity and trust, doing the right thing, no matter what the rules are....
133.	[Doing the Right Thing] This only punishes people who are already doing the right thing. Spend more time hunting down the predators
134.	[Doing the Right Thing], [Compliance] Fiduciary standards and "compliance" issues are woven into my practice as the right thing to do. That's why I can't really separate out the % of time element you're asking for.
135.	[Held] All advisors should be held to a fiduciary standard. Any disclosures of potential conflicts of interest should be made in 12point type size or larger.
136.	[Held] At a minimum, all advisors including Brokers, working in the investment advice area should be held accountable to "the prudent man rule." Politicians should be put in jail for insider trading and their brokers should be investigated for the use of the insider information they have acquired from the politicians. Any misuse of insider information should require a jail sentence.
137.	[Held] Common sense for an industry like the financial services industry should say that all advisors be held to a fiduciary standard and not a suitability standard.
138.	[Held] Every person holding themselves out as an advisor should be held to a fiduciary standard. It is not fair to those who follow the fiduciary standard to have to abide by rules when non-fiduciaries can call themselves advisors when they are just product pushers.
139.	[Held] Everyone in this industry should be held to a fiduciary standard.
140.	[Held] I hope its not another rule or standard that we (advisors) are held to and the policy makers are not....
141.	[Held], [SEC] I encourage the SEC to increase the standard of care that brokers are held to the fiduciary standard. Too many consumers out there are being misled by everyone using the term "advisor"...even when the broker selling the product isn't advising them but selling them products that create conflicts of interest.
142.	[Legislation] You cannot legislate character. Even if an advisor has certain credentials, there is no guarantee to the consumer this makes a difference as they either have integrity or they do not. In theory, this all makes sense and would seem to be in the best interest of the public, however, I suspect the implementation could get interesting.
143.	[Legislation] You cannot legislate virtue, which is what this is an attempt to do. Inform the public of the difference between fiduciary and suitability standards and let them decide. Do not force this decision on them, which will make it all the more difficult to differentiate the incompetent and unethical from those operating by a fiduciary standard.
144.	[Legislation], [Able], [Stop] Consumers should be able to make educated decisions. Businesses should be able to operate however they wish, as long as what they do is disclosed to the consumer. Do not force non-fiduciaries to become fiduciaries. Instead, focus on some sort of distinction that must be made aware to consumers. If a Metlife agent want to sells someone a life insurance policy or a Merrill Lynch broker

wants to sell someone a stock, they should have to disclose that they are employees of a financial institution. That consumer has the option to work with those people or an independent AIF who would provide quotes for a number of life insurance companies or charge a management fee to build a portfolio that suits the best interests of the client.

Stop focusing legislation on forcing non-fiduciares to work as fiduciaries - it is impossible to represent the best interests of a company selling a product while also representing the best interests of the consumer. Instead, focus on some sort of disclosure that lets consumers decide for themselves after being provided adequate information.

145. [Legislation], [Problem], [Change] Harmonizing the fiduciary standard will not solve the problem. Unless and until the advisor/consultant community, as a whole, determines that it is worth it to abandon a "sales" model and hold themselves accountable to a professional and ethical standard such as those in similar, complementary professions (CPAs, attorneys, etc.), without the disciplinary stick of governmental regulation, unethical practices, conflicts, etc. will continue to abound. And the financial services industry as a whole needs to serve this common end, so that products, services, etc. are designed (as a business best practice, instead of being forced to) with no conflicts, deceptive or unclear language, etc., etc. Increased regulation results only in increased costs, passed on to the client out of necessity, and is completely counter to the articulated goals and aims of this current proposed legislation. Increased regulation will not result in any benefit to the end clients, nor will it create any significant change in the ethical standards of advisors and consultants.

146. [Legislation], [Protect Consumers] Per last question, there is clearly a need for a fiduciary layer of protection for ALL consumers, but passage of such legislation and implementation would be STRONGLY opposed by all bank-related and wirehouse institutions.

147. [Problem], [Doing the Right Thing] I believe the broker-dealers are the biggest hurdle. I think the overwhelming majority of advisors are doing the right thing for every client, I believe the problem is with the broker-dealers, they are getting a whole lot of money to do nothing for the client.

148. [Problem], [Doing the Right Thing] In my mind.....those of us who choose to build our practices on Honesty, Integrity, and Trust will not have issues regardless if they are a fiduciary or not. The fiduciary status seems to carry more direct liability and responsibility. Those that choose to act and advise in their client's best interest will continue to be viewed as superior. Those who choose to bait and switch via marketing....sell the most highly commissioned product...and are only in it for the $$$$ will have their day of reckoning.....it's just a matter of when. Some of the portfolios I review for elderly people....assembled by my competitors are down right disgusting and embarassing!!! They give us all a black eye. The unscrupulous advisers in this business....taking advantage of or mis-leading older people who have put their trust in them should be terminated!! If they ever tried something like that with a friend or relative of mine....I can guarantee you it would NOT be well received....and TOO much of this type of activity still exists in this industry. Kind of like terrorism.....the guns (financial products) in and of themselves, are normally NOT harmful....but put in the hands of a selfish, narrow, or greedy individual....all bets are off regarding them doing the RIGHT thing with the clients money. A VERY SAD story and when it happens to the elderly on limited incomes....it is simply appalling! I wish I had a solution to the problem....but like terrorist activity....it's frequently unpredictable....and usually the result of a handful of people caring more about themselves....their goals and objectives verses others. I'll get off my soap box now....but I sleep like a baby at night....focusing on doing what's RIGHT....and accepting the results of our studious efforts. It comes down to Psychologic stability, Ethics, and Integrity! You either have it.....earn or obtain it....or you don't!

149. [Problem], [Simple] To me its pretty simple, you are either acting in the best interests of your clients, or you are pushing product. If you are ethical, you shouldn't have any problem disclosing which one you are.

150. [Problem], [Simple], [Retirement Plans] Harmonizing the fiduciary standard isn't going to ensure that investors are completely protected, but it will likely help. The problem is there are always methods that providers can utilize to get around being classified as a fiduciary no matter what the standard is. We've seen far too many retirement plan sponsors and retirement plan participants being taken advantage of, and some simple, but not too imposing enhancements to regulations, should help that.

151. [Protect Consumers] There is a better way to protect consumers. Rather than impose regulation increase the liscensing standards. The AIF does not have enough financial planning requirements. Require the "agent" to obtain a planning liscense such as the CFP. This is very needed in the 401k world and allow the planner then to provide direct advice. The fear of churning or increasing fees is not allowing planners to do what is right for the client. Espcially given the limited nature of offerings in a 401K plan.

152. [Protect Consumers], [Compliance] I think this is overreaching and consumers should have more personal responsibility regarding investment decisions. All this compliance has ruined the industry and does little to protect the consumer. The main people it benefits are the attorneys and providers of designations.

153. [Protect Consumers], [Compliance], [Watered] As I understand the harmonized rules under consideration, there is a likelihood that the current fiduciary standard would be watered down and compliance costs would increase, according to Schwab's research. As I understand it, the new harmonized standard might only require disclosure of conflicts of interest, rather than eliminating or avoiding them. If that is the case, I don't think a harmonized standard is the best solution. I recommend either elevating everyone to the current standard, or maintaining the higher fiduciary standard and the lower suitability standard. Lowering the standard to make it "one size fits all" rule is going backward in consumer protection.

154. [Protect Consumers], [Doing the Right Thing] I may be cynical, but the reason I do not believe a fiduciary standard will protect consumers is the sheisters out there will find a way to do what they want - the suitability standard was supposed to do the same thing. Frankly it is offensive and burdensome that those of us who do the right thing need to deal with additional disclosures (which no one reads) and processes that will probably not accomplish what they are supposed to accomplish.

155. [Protect Consumers], [Doing the Right Thing] Please understand the extreme self interest from parts of the industry that feel a robust fiduciary standard would hurt consumers. For too long the investing public has been told that "financial advice" is financial advice. It is not. It is the sale of products designed to maximize profits for an industry that has never exhibited any restraint on behavior. Fiduciary requirements would expose these practices for what they really are. Informed consumers make better choices. Today's suitability standard is what is hurting the investing public, and why regard for "Wall St". is so low.
The Broker/Dealer business model tries to confuse the issue with fear that consumers would be hurt. What hurts consumers are the sales tactics,expensive and useless account activities and an assumption that their interests are being protected. Disclosure won't help. Conflicted advice that requires a law degree to interpret doesn't help. Fighting for justice after being ripped off is what really costs consumers in time and resources. Don't let industry lobbies and self-interested politicians drive the discussion.
Please do the right thing.

156. [Retirement Plans] Certain financial services should without question be subject to fiduciary standards; i.e., retirement plans in particular. Otherwise, the distinction between fiduciary and non-fiduciary practices should be clearly labeled and engagements with clients clearly disclosed by all. The words "advisor", "financial planner", "financial consultant" and other semantic variations that are misunderstood by the public and misused by sales representatives to convey their expertise and capabilities should be carefully restricted to those that meet educational, certification and registration requirements so as to differentiate between fiduciaries and product sales reps.

157. [Retirement Plans] I don't believe that non-fiduciaries should be allowed to work with qualified retirement plans. It adds liability to the sponsor's plate and creates confusion across the industry. Regardless of a uniform fiduciary standard, I think the fiduciary standard should apply to qualified plans.

158. [Retirement Plans] I think that there should absolutely be a harmonized standard, but I also think that providing advise to a plan should not preclude an advisor from working with a plan participant upon retirement or termination of employment. What is ludicrous, is that an advisor can work with a plan participant for years and years, but is then cannot retain a relationship after termination? That's not in the best interests of plan participants.....

159.	[Retirement Plans] Whether or not a "normal" commissioned adviser is deemed a fiduciary in regards to a retirement plan. The client will think they are doing the same things... giving advice.
160.	[Retirement Plans] yes! I am a fiduciary in everything I do at work but I chose this by creating a firm exclusively dedicated to workplace retirement plans. in the broader market of financial products and customers I see no overwhelming need and, in fact no possibility of implementing a uniform standard without ruining the capital market system. someone has to sell securities, particularly in the primary markets. Having said that 1) we (America) need to better educate consumers on the difference between a reg rep and an IAR, and 2) in my space, ERISA plans, all advisors must be fiduciaries in my view.
161.	[SEC] I think it is appalling that anyone can call themselves a financial planner and stick unsuspecting seniors into index annuities and not be under any type of regulations from FINRA or the SEC. The first place to start with a fiduciary standard should be with insurance agents.
162.	[SEC] I'm concerned the SEC will be overly influenced by the heavily politically connected large wire house broker dealers.
163.	[SEC] The SEC should continue to oversee the fiduciary standard. There is no reason not to have a uniform standard that looks to the best interest of the client. Also, should apply definition standards for "financial advisor"
164.	[SEC] The SEC should look closely at the regime operating in New Zealand. All brokers and all advisers have a Code of Professional Conduct with a set of Code Standards. The first is the fiduciary duty.
165.	[SEC] There are structural differences between broker dealers and investment advisors that come from Rules and Regulations (SEC, State SRO) that need to be addressed as they impact the discussion of how sales, services and operations of the business are conducted. The client aspect is only one part of the business.
166.	[SEC] There should be brokers and there should be advisors. But one person should not be both. The transition from salesperson to fiduciary is impossible to make mid-conversation or mid-sentence. Create a bright line distinction between a salesperson and a fiduciary advisor. Don't allow non-fiduciaries to use the term "advisor" in any way shape or form. The public just doesn't understand, the SEC should protect the public, not Wall Street.
167.	[SEC] We don't need the SEC to take away the consumer's right to choose whether to use broker or adviser. We just need better clarification for the consumer as to the differences.
168.	[Simple] If A Fiduciary standard is required for all my clients, I would have to terminate my services to my clients with under $50K. Approximately 25% of my 500 clients. Many who I have guided for minimal commissions for over 20 years. I call it Pro Bono work and if a Fiduciary standard is universally applied, I would have to terminate those relationships. This seems so simple, disclose WHEN we are serving in Fiduciary role and when we are not. Let the client decide.
169.	[Simple] It seems so simple to have a uniform fiduciary standard but I also know that the full weight of the investment world is against it. I think we adhere to a fiduciary standard regardless of what they decide and let the public decide. As they become more informed they will navigate to the higher standard and we should be the ones to set that standard.
170.	[Simple] Make it fair; make it simple; make it easy to understand and all will want to do it except the few that always take shortcuts.
171.	[Simple] This is really a very simple matter. Just as physicians work in the best interest of their patients, so any person offering any kind of financial advice must be required to operate exclusively in the best interest of the client.
172.	[Simple] We need a fiduciary standard that is simple and applies to all clients regardless of the type of account
173.	[Simple], [Watered] We do not want the fiduciary standard to be watered down. It is simple, either you act in the client's best interest or you don't. Those who don't should be required to disclose that to their client. Those who aren't fiduciaries are salesman. They are not advisors or consultants just salesmen.

174.	[Small] A harmonized fiduciary standard would most likely dilute the current standard, accomplish very little and exclude small investors from the very advice that they, most of all, need.
175.	[Small] Commissions are not a bad thing. It does allow an advisor to get paid for helping the very small client who otherwise would have no he;lp at all.
176.	[Small] The 5500 return for small plans was moved to a short form and the information plan sponsors need to review and disclose is not enough on the short form. Go back to the long form and have each plan sponsor complete a detailed fee and expense summary separate from participant plan distributions. Three things would happen, #1. the total plan fees would be fully disclosed. #2. the plan expenses would hit the plan sponsor as a total value versus being hidden and convoluted in a series of disclosures as the mutual fund and insurance companies want in order to keep the fees being generated. #3. The service providers (TPA,Adviser or Custodians and Investment / Insurance companies) would all be looked at as a individual cost analysis getting the intended results to a fiduciary standard of disclosure.
177.	[Small] The small independent is going to be pushed out of business or into a haircut relationship with an Insurance company or larger brokers
178.	[Small] There is no question that a fiduciary standard will protect investors and improve investor success. I believe that the financial services industry will find ways to work as a fiduciary when servicing small retail clients and other clients currently served using the suitability standard.
179.	[Small] While my practice would be impacted some, and believe it would generally be a positive, I am generally against hurting small investors that would see an increase in costs.
180.	[Small], [Held] 1. The fiduciary standard may have the unintended consequence of hurting consumers with small accounts. 2. A fiduciary standard would have the highest impact if it also held insurance product sales people to the same standards.
181.	[Smaller] I fully support the fiduciary standard for all clients. However, I am concerned how it will impact the smaller account investors and what services will be availble to them.
182.	[Smaller] Please understand thet advice comes at a cost, and fpr amn advisor to be considered a fiduciary weighs the costs verses the compensaton received, and decides accordingly whether ot not to accpet the a plan as a client. The more burdensome the regulations, the smaller the adivor pool becomes, and the less qualified advise, or any advise will berendered to more than likely the part of the population who needs the advice the most - the less educated, and financially backward participants.
183.	[Smaller], [Retirement Plans] As a highly active prospector of retirement plans currently I find that most plan sponsors feel that they have very little liability when it comes to there plans. With 2011 statistics stating that 73% of larger plans audited by the DOL failed their audit and realized a fine of >$400k. When I point this out to smaller plan sponsors it seems to fall on deaf ears almost every time. It appears they believe "just because it hasn't happened yet it can't happen".
184.	[Smaller], [Small] I think unfortunately that the smaller plan/individual investment size will impede the ability of investors to obtain the services of an independent consultant. I do think, however, that should we create a "model" for small size investors that could be universally implemented, we can address the costs. As for larger assets under management, the biggest impediment is lack of understanding of the amount of risk advisors assume when acting as a fiduciary to clients. The way the industry has worked to date has reduced expertise to "cost" or "commodity" levels rather an expertise and mitigation of risk. Fiduciaries need to "market" what they do as professional expert advice rather than "just another broker."
185.	[Stop] It's time to get it done and stop pussy-footing.
186.	[Stop] Stop pandering to Wall Street and start focusing on main street. America's public is best served with a Fiduciary standard of care and NOT a suitability standard of care.

187. [Stop], [Small], [SEC] It would seem far more effective and less costly for the regulatory agencies (FINRA and SEC) to simply stop approving complex products and securites dreamed up by Broker-Dealers and Insurance Companies. A review and analysis of which products cause the most complaints and recoveries/sanctions (non-traded REITs, auction rate securities, leveraged products, stocks, bonds, mutual funds, CEFs, etc.) might shed light on categories of products or types of products that should be restricted from further sales, or limited to Qualified Purchasers / Accredited Investors, etc. Small investors are harmed not by commissions, not by suitability loop-holes, but rather by investing in products they do not understand.

188. [True Fiduciary] Harmonizing the fiduciary standard is simply a mistake. Either one is a full fiduciary with all of the positive benefits for a client or they are not. Weakening the standard is not in the sole or even best interest of the client and would be a fiduciary breach of colossal proportions. The public should, in my opinion, always have the choice of purchasing products from a salesperson (non-fiduciary) or professional services (advice) from a fiduciary. Weakening the fiduciary standard to appease the financial services industry would be a terrible regulatory blunder that would do considerable harm to the investing public. Our clients have specifically sought out our fiduciary services on the recommendation of their legal counsel. The legal community understands the difference and is demanding a true fiduciary for their own clients. That should be evidence enough of what is in the interest of the public and what is not.

189. [True Fiduciary] Most "fiduciary" institutions are read: trust companies... are such only by default. I don't think most clients or "pros" understand true fiduciary responmsibilities and ethics. I would rather test pros for fundamental understanding of right and wrong, than train for certifications

190. [True Fiduciary], [Held], [SEC] For many years the distinction was clear: Brokers sold securities for a commission; any "advice" had to be purely incidental; and they were not held to a fiduciary standard. Advisors operated on a fiduciary standard and paid fees by the client.

Over the past several years the SEC (and FINRA) have willfully ignored brokers (and insurance agents)misrepresenting themselves as "advisors". This has become so prevalent that even the financial press refers to anyone and everyone in finacial services as an "advisor" without regard to conflicts, ficudiciary responsibility or anything other than keeping the big firms happy.

Why not just enforce the laws as they are written? One who wants to market him/herself as an "advisor", must adhere to the fiduciary standard. If that person (or firm) is unwilling to adhere to the true fiduciary standard, they should be prosecuted for (mis)representing themselves as "advisors".

191. [True Fiduciary], [Retirement Plans], [Held] An investment advisor should always be held to a fiduciary standard. This is especially true as it relates to retirement plans, foundations and endowments.

192. [Watered] I do not want to see a relaxed fiduciary standard be adopted. A watered down version will not benefit the consumer or the industry.

193. [Watered] If the harmonized standard waters down the current fiduciary standard, it should be avoided.

194. [Watered] Strongly suggest that whatever the harmonized version of the fiduciary standard is, it is no less stringent than it currently is. Do not water it down.

195. [Watered], [SEC] the SEC should not water down their definition of fiduciary. If they do not maintain the high fiduciary standard as defined in the Act of 1940 then consumers will have a false sense of security

fi360 SEC Harmonized Fiduciary Standard

Page #1

Thank you for participating in our survey! This survey asks a few questions about you and your practice then focuses on your experiences and perceptions with potential compliance regulation. Survey results will be aggregated and shared with the SEC in regard to their request for data and other information, as they evaluate harmonization of the fiduciary standard.

Please allow 9-12 minutes to complete the survey.
Please note that this survey is completely anonymous and confidential.
Results will only be reported in aggregate form.

How long have you been working in the financial services industry?

- Less than 3 years
- 3 to 5 years
- 6 to 10 years
- 11 to 15 years
- 16 to 25 years
- More than 25 years

(optional) What is your age?

- Under 25
- 26 to 35
- 36 to 45
- 46 to 55
- 56+

(optional) Please indicate your gender

- Female
- Male

Which of the following best describes your business/regulatory model?

Select only one answer.

- Registered representative working as an employee for a broker-dealer
- Registered representative working as an independent adviser affiliated with a broker-dealer
- Registered representative working for a bank, credit union or savings loan
- Dually registered adviser (both a FINRA license and an IAR/RIA registration)
- Independent IAR/RIA
- Unregistered planner/adviser
- Other, please specify... ________________________

How many individuals are employed by your practice/firm? Please include yourself.

• 1
• 2-5
• 6-10
• 11-15
• 16-20
• 21-30
• 31-40
• More than 40

How many clients do you currently serve in a financial advice capacity? Please count each client household as a single client.

____

How do you predominately generate revenue?

- AUM fee
- Hourly, retainer or flat fee
- Product commission(s)
- AUM fee plus product commissions
- AUM fee plus hourly, retainer or flat fee
- Other, please specify... ________________________

Which of the following certifications or designations do you currently hold?

Please select all that apply.

- [ ] AIF
- [ ] AIFA
- [ ] CFA
- [ ] CFP
- [ ] ChFC
- [ ] CIMA
- [ ] CLU
- [ ] CPA
- [ ] CPA/PFS
- [ ] Series 6
- [ ] Series 7
- [ ] Series 65
- [ ] Series 66
- [ ] Other, please specify... ________________________
- [ ] None

What is your annual production level/revenue <u>you personally</u> generate for your firm?

- I don't know/prefer not to answer
- Less than $100K
- $100K-$249.9K
- $250K-$499.9K
- $500K-$749.9K
- $750K-$999.9K
- $1M-$1.49M
- $1.5M-$1.9M
- $2M-$2.9M
- $3M or more

What is the approximate value of the assets you personally manage?

- None/NA
- Under $25M
- $25M-$49.9M
- $50M-$74.9M
- $75M-$99.9M
- $100M-$149.9M
- $150M or more

What percentage of your annual business is from 401(k) plan maintenance/advice?

- None
- Less than 10%
- 10-24%
- 25-49%
- 50-74%
- 75-89%
- 90-99%
- 100%

Please indicate how much you agree or disagree with the following statements about your business/practice since you became a fiduciary.

	Strongly Disagree	Disagree	Neutral/No opinion	Agree	Strongly Agree
My clients are more satisfied now with my services/advice than they were before.					
The amount of time I spend on compliance related tasks has increased.					
I use/recommend a different set of products now than I did before.					
Compliance related expenses have increased.					
My clients are better informed about any conflicts of interest.					
There are products I would like to use/recommend, but I cannot as a fiduciary due to restricted access or cost concerns.					

In general, how well informed do you think your clients are about the differences between the fiduciary and suitability standards?

Please select the best answer.

- My clients are very well informed and could accurately describe the differences between the standards.
- My clients are somewhat informed and could provide a general idea of the differences.
- My clients might be able to tell the difference.
- My clients would not be able to describe the differences.
- My clients think they understand the differences but they are usually wrong.

In general, how well informed do you think your prospects are about the differences between the fiduciary and suitability standards?

Please select the best answer.

- My prospects are very well informed and could accurately describe the differences between the standards.
- My prospects are somewhat informed and could provide a general idea of the differences.
- My prospects might be able to tell the difference.
- My prospects would not be able to describe the differences.
- My prospects think they understand the differences but they are usually wrong.

Which of the following, if any, do you do with the majority of your clients?

Select all that apply

- ☐ Provide written disclosures regarding conflicts of interest.
- ☐ Explain what a conflict of interest is and/or provide examples.
- ☐ Verbally disclose conflicts of interest at every meeting.
- ☐ Verbally disclose conflicts of interest only at the first client meeting.
- ☐ Verbally disclose conflicts of interest as they arise.
- ☐ Other, please specify... ________________________
- ☐ None of these

After becoming a fiduciary, did you experience any of the following changes to your client base?

Select all that apply.

- [ ] I was able to acquire new clients specifically due to my fiduciary status.
- [ ] I had to discontinue some client relationships.
- [ ] As a result of my fiduciary status, I lost some clients.
- [ ] None of these

When you receive a new account that was formerly managed by a non-fiduciary, do you usually need to change the product mix specifically to avoid conflicts?

- Yes, almost every time.
- Yes, frequently.
- Yes, some of the time.
- Yes, but it is rare.
- No, never.

How do you approach conflicts of interest in your practice?

Please select all that apply.

- [ ] I disclose conflicts of interest and allow the client to decide if they want to proceed with any recommendation(s).
- [ ] I avoid conflicts of interest by not recommending/using products for which I would receive a commission or similar compensation.
- [ ] Other, please specify... ________________________

Approximately how frequently do you have a conflict of interest?

- Never
- Occasionally (with 24% or fewer clients annually)
- Frequently (with 25%-74% of clients annually)
- Often (74%-99% of clients annually)
- All the time

On a weekly basis, approximately how much staff time is spent on compliance related activities? Please include your time and the time of all other staff members.

• 2 hours or less/week
• 3-4 hours/week
• 5-9 hours/week
• 10-19 hours/week
• 20-39 hours/week
• 40-59 hours/week (1 FTE)
• 60-79 hours/week
• 80-99 hours/week (2 FTE)
• 100-119 hours/week
• 120-129 hours/week (3 FTE)
• 130 hours or more/week

On an annual basis, how much do you spend on compliance related costs as a percentage of your total revenue?

- 1% or less
- 2-4%
- 5-9%
- 10-14%
- 15-19%
- 20-24%
- 25% or more

In your opinion, does a fiduciary standard protect consumers?

- Yes
- No
- Not sure

Do you believe a uniform fiduciary standard would change the costs of services provided to consumers?

- Yes, the cost would increase.
- Yes, the cost would decrease.
- No.
- Other, please specify... ________________________

Assume that a harmonized fiduciary standard increased the cost of services to the consumer. In that case, do you believe the benefits to the consumer of working with a fiduciary outweigh the downside of consumers being priced out of the advice market?

- Yes
- No
- Don’t know/not sure

(optional) Is there anything else you would like to share in regard to the SEC's evaluation of harmonizing the fiduciary standard?

<u>Exhibit B</u>

to

fi360, Inc. Comment Letter

File No. 4-606

The Impact of the Broker-Dealer Fiduciary Standard on Financial Advice

Michael Finke
Texas Tech University

Thomas Langdon
Roger Williams University

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Abstract: Consumers who rely on the financial advice of experts are at an information disadvantage that may be exploited by advisers who are not required to make recommendations that are in the best interest of the customer. Registered representatives of broker-dealers are subject to a suitability standard under the Securities Exchange Act of 1934, while investment advisers are regulated as fiduciaries under the Investment Advisers Act of 1940. An early legislative version of the 2010 Dodd-Frank Act would have eliminated the broker-dealer exception from the definition of investment adviser under the Advisers Act. If enacted, this change would have subjected brokers to a common-law fiduciary standard (like investment advisers), but was postponed to examine the consequences of this policy change. It has been suggested that the imposition of a fiduciary standard on registered representatives would result in significant changes in how broker-dealers conduct business by limiting a representative's ability to recommend commission investments, provide advice to middle-market clients, and offer a broad range of financial products. We take advantage of differences in state broker-dealer common law standards of care to test whether a relatively stricter fiduciary standard of care impacts the ability to provide services to consumers. We find that the number of registered representatives doing business within a state as a percentage of total households does not vary significantly among states with stricter fiduciary standards. A sample of advisers in states that have either a strict fiduciary standard or no fiduciary standard are asked whether they are constrained in their ability to recommend products or serve lower-wealth clients. We find no statistical differences between the two groups in the percentage of lower-income and high-wealth clients, the ability to provide a broad range of products including those that provide commission compensation, the ability to provide tailored advice, and the cost of compliance.

Keywords: Fiduciary regulation, broker dealer exemption, financial advice, household finance, investment advising, brokerage industry

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I. Introduction

Financial advisers provide expert assistance selecting financial instruments for retail customers. Registered representatives of broker-dealers facilitate the sale of securities and often provide financial advice to clients who are less knowledgeable about the product. This imbalance of information has led to the imposition of a legal fiduciary standard when an informed agent is hired to make decisions on behalf of a less informed client (Frankel, 1983). In the absence of an informational imbalance between registered representatives (or brokers) and their customers, the primary service provided through broker-dealers is to sell retail financial products demanded by the customer. However, many broker-dealers have suggested through advertising and by referring to registered representatives with terms such as "financial planner" or "financial consultant" that their services include planning or consulting services that involve the provision of expert advice (Hung, Clancy, Dominitz, Talley, Berrebi and Suvankulov, 2008). Most consumers assume that advising services are provided by registered representatives of broker-dealers (Hung et al., 2008).

While consumers are generally unable to distinguish between investment advisers whose primary purpose is to provide investment advice and registered representatives whose advice is considered incidental to the sale of financial products, they are regulated by two different entities that apply different market conduct standards. Investment advisers are regulated by the Securities and Exchange Commission (SEC or Commission) under the Investment Advisers Act of 1940 (Advisers Act) as fiduciaries and a fiduciary standard of care is applied to the advice given to their clients. Registered representatives of broker-dealers are regulated under the Securities Exchange Act of 1934 through the Financial Industry Regulatory Authority (FINRA), a self-regulatory organization. Registered representatives must meet a standard of suitability when providing information about financial products, and are not assumed to have a fiduciary responsibility toward customers.

The difference in regulation between investment advisers and brokers impacts the market for financial advice. The sale of professional advisory services to a less-informed client involves significant potential agency costs that exist when the interests of the client and broker/adviser are not perfectly aligned (Jensen and Meckling, 1976). These costs occur when the broker recommends products that benefit the broker to the disadvantage of the customer. Examples of agency costs include recommending products that have higher commissions or not taking the time to consider alternative financial strategies for a customer. It is possible that the application of a suitability standard to investment advice will lead to greater agency costs. A suitability constraint allows brokers to recommend products that are not necessarily in the best interest of the client but may be considered potentially suitable given the customer's characteristics and needs. This latitude in product recommendation among registered representatives provides a greater opportunity to extract customer rents than would be possible under the constraints of a fiduciary standard (Cummings and Finke, 2010). If the suitability standard provides greater opportunities to extract rents from clients, we would expect the broker-dealer industry to defend its ability to maintain this advantage by continuing the existing regulatory regime.

If, however, a fiduciary standard was applied to registered representatives whose sole purpose is to facilitate the sale of financial instruments within a competitive marketplace, the imposition of a fiduciary standard to these sales activities may have a negative impact on the ability of broker-dealers to provide a variety of financial products to consumers. Many consumers may demand products whose appropriate use is difficult for a registered representative to defend as being in the customer's best interest. For example, there may be mutual funds that pay a commission to the broker that are less efficient than comparable mutual funds that pay no commission. The brokerage industry has argued that since moderate income clients are less attractive to investment advisers, who are often compensated based on a percentage of assets under management, these clients often seek financial advice from registered representatives compensated through product commissions (Headley, 2011). These less wealthy clients may be less able to receive much-needed financial advice incidental to the sale of commission products if brokers incur increased liability under a fiduciary standard. The application of a standard of care that assumes a fiduciary relationship between registered representative and customer may constrain the ability to make product recommendations and limit the range of available financial products.

While the industry has suggested that fiduciary regulation will have an adverse impact on the industry, there are no existing empirical studies that examine the impact of a change in regulatory policy on the marketplace for financial advice. This study takes advantage of heterogeneity in broker-dealer regulation among states to test whether a relatively more strict application of a common law fiduciary standard of care impacts the number of registered representatives doing business within the state. We also conduct a survey to assess differences in perceived ability to provide financial products among states subject to stricter fiduciary standards. We find that the saturation of registered representatives within states does not vary significantly among states with different fiduciary regulation. When advisers in states that have a stricter fiduciary standard are asked whether they are constrained in their ability to recommend products, or if they are unable to serve lower-wealth clients, we find no statistical difference between advisers from states that do and do not apply a common law fiduciary standard.

II. Background

On July 15, 2010, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Section 913 of the Dodd-Frank Act required the SEC to conduct a study to evaluate, among other things, (1) the effectiveness of existing legal or regulatory standards of care (imposed by the Commission, a national securities association, and other federal or state authorities) for providing personalized investment advice and recommendations about securities to retail customers; and (2) whether there are legal or regulatory gaps, shortcomings, or overlaps in legal or regulatory standards in the protection of retail customers relating to the standards of care for providing personalized investment advice about securities to retail customers that should be addressed by rule or statute. In one of the early legislative drafts, Dodd-Frank would have eliminated the broker-dealer exception from the definition of investment adviser under the Advisers Act, but the legislation as adopted included a compromise to conduct further study of the issue. The Dodd-Frank Act defines "retail customer" as a natural person, or the legal representative of a natural person, who receives personalized investment advice about securities from a broker or dealer or investment adviser and who uses that advice for personal, family, or household purposes.

In January 2011, the SEC released its Study on Investment Advisers and Broker-Dealers (Staff of the U.S. Securities and Exchange Commission, 2011). In its report, the SEC staff noted that "the regulatory regime that governs the provision of investment advice to retail investors is essential to assuring the integrity of that advice and to matching legal obligations with the expectations and needs of investors," and found that investors are often confused by differing standards of care that apply to investment advisers and broker-dealers (Staff of the U.S. Securities and Exchange Commission, 2011). The SEC study recommended the adoption of a uniform fiduciary standard for investment advisers and broker-dealers that provides:

> The standard of conduct for all brokers, dealers, and investment advisers, when providing personalized investment advice about securities to retail customers (and such other customers as the Commission may by rule provide), shall be to act in the best interest of the consumer without regard to the financial or other interest of the broker, dealer, or investment adviser providing the advice (Staff of the U.S. Securities and Exchange Commission, 2011).

The SEC study recommends that the Commission, in implementing a uniform fiduciary standard, should engage in rulemaking and provide interpretive guidance addressing the two major components of a uniform fiduciary standard: the duties of loyalty and care. When addressing the duty of loyalty, the report suggests that a uniform fiduciary standard will obligate both investment advisers and broker-dealers to eliminate or disclose conflicts of interest. The report notes, "[t]he Commission should consider whether rulemaking would be appropriate to prohibit certain conflicts, to require firms to mitigate conflicts through specific action, or to impose specific disclosure and consent requirements." When it comes to duty of care, the study suggests that minimum baseline professional standards should be adopted that could include, for example, specifying what basis a broker-dealer or investment adviser should have in making a recommendation to an investor.

III. <u>Traditional standards of care for Investment Advisers and Broker-Dealers</u>

A. <u>Investment Advisers</u>

Section 202(a)(11) of the Advisers Act defines an "investment adviser" as:

> Any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation as part of a regular business, issues or promulgates analyses or reports concerning securities.

Section 202(a)(11)(C) of the Advisers Act excludes from the definition of an investment adviser any broker or dealer that meets the following requirements: (1) the performance of investment advisory services is 'solely incidental' to the conduct of its business as a broker-dealer, and (2) no "special compensation" is received for advisory services.

Investment advisers owe their clients a fiduciary duty of care (SEC v. Capital Gains Research Bureau, Inc., 1963; Transamerica Mortgage Advisors, Inc., 1979). The fiduciary standard that applies to investment advisers encompasses the adviser's entire relationship with its clients and prospective clients (SEC v. Capital Gains Research Bureau, Inc., 1963) and imposes a duty of loyalty and a duty of care.

The duty of loyalty requires a fiduciary to act in the best interests of the client even if doing so may not be in the financial interests of the fiduciary. Under the duty of loyalty, a fiduciary is required to disclose potential conflicts of interest so that the client is aware of those matters where the adviser, either consciously or unconsciously, might render advice which was not in the best interest of the client (SEC v. Capital Gains Research Bureau, Inc., 1963).

The duty of care requires a fiduciary to "make a reasonable investigation to determine that it is not basing its recommendations on materially inaccurate or incomplete information (U.S. Securities and Exchange Commission, 2003). Investment advisers, as fiduciaries, must make suitable and reasonable investment advice to their clients based on the client's financial situation and investment objectives.

B. <u>Broker-Dealers</u>

Traditionally, a broker-dealer has acted as an intermediary between a buyer and seller of securities. Unlike investment advisers, which are subject to a fiduciary standard, broker-dealers have traditionally been subject to a less stringent standard referred to as the "suitability standard." The suitability standard requires broker-dealers to provide suitable investments to customers, but does not require the broker-dealer to act in their best interest (Simon, 2005).

Broker-dealers do, however, have an obligation to deal fairly with customers. Courts have found that broker-dealers make an implicit representation to customers that they will be treated fairly in a manner that is consistent with the standards of the profession (Charles Hughes & Co. v. SEC, 1943). Through various rulemaking initiatives, FINRA (and its predecessor organization, the National Association of Securities Dealers, or NASD) has helped define the duties implied by this fair dealing standard. Among these duties are requirements for broker-dealers to have a reasonable basis for recommendations that are made after considering the customer's financial situation (i.e., a "suitability standard") (NASD Rule 2310); engage in fair and balanced communications with the public (NASD Rule 2210(d)); provide timely and adequate confirmation of transactions; provide account statements (NASD Rule 2340); disclose conflicts of interest (NASD Rule 2720; NASD Rule 3040); receive fair compensation in agency and principal transactions (NASD Rule 2440; FINRA Rule 5110(c)); and give customers an opportunity to resolve disputes through arbitration.

Broker-dealers typically hire agents to provide their services directly to the public. Stockbrokers, for example, are considered agents of a broker-dealer. This agency relationship further complicates matters (and leads to confusion by the public about the varying standards that apply to investment advisers and broker-dealers) because an agent owes his or her primary duty to the principal (which, in this case, would be the broker-dealer). The duty of loyalty owed to the principal (broker-dealer) transcends any duty that the agent may have to a customer while acting in the role of an intermediary. "Even if a non-fiduciary stockbroker wanted to follow the trust standard of law and become a fiduciary to its clients, it cannot do so because of the conflict it has with its broker-dealer. Such contracts require the stockbroker to place the interests of the broker-dealer before the interests of the stockbroker's clients" (Simon, 2005).

While broker-dealers are not subject to the fiduciary standard under federal law, state common law may impose a fiduciary standard on broker-dealers providing services within that state in addition to rules and regulations imposed by the federal government for transactions and services. Courts in four states have chosen to impose an unambiguous fiduciary standard on broker-dealers.

IV. Study Objective

As a response to the regulatory problems and perceived fraud in financial markets that contributed to the financial crisis, Congress passed, and the President signed into law, the Dodd-Frank Act. Prior to the financial crisis, some private self-regulatory organizations, such as Certified Financial Planner Board of Standards, Inc. (CFP Board) sought to distinguish designees from other providers of financial services by holding certificants to a fiduciary standard of care when dealing with clients. These events, along with a perception by lawmakers that higher standards should be applied to providers of financial products and advice, led Congress to call for the completion of a study by the SEC to determine whether it would make sense to impose a unified fiduciary duty of care on both investment advisers and broker-dealers when providing personalized investment advice.

While there has been some recent convergence of the regulatory duties performed by investment advisers and broker-dealers over time, particularly in the area of disclosure, there remain some differences in the scope of services provided by these professionals. Investment advisers have traditionally served higher income/higher net worth clients and are often compensated on an assets under management basis. Depending upon the scope of the engagement, and whether they hold discretion, investment advisers may also hold a duty of care to clients to carefully monitor investment performance. Beginning in the late 1980s and early 1990s, the landscape for the delivery of investment advice began to shift when broker-dealers began to increasingly offer financial advice, relying on the "solely incidental" exemption in the Advisers Act, or becoming dually registered as investment advisers to provide fee-based advisory services. The investment advice provided on the brokerage side, however, tends to be episodic and focused on specific products and transactions that are suitable for a given client. Broker-dealer agents are usually compensated on a commission basis, and traditionally do not owe customers an ongoing duty to monitor their client's financial position. Broker-dealers have claimed to provide lower-cost advisory services, offset by transaction fees, for customers who do not wish to pay, or cannot afford to pay, the higher direct fees charged by investment advisers.

Due, in part, to the imposition of the suitability (as opposed to fiduciary) standard on broker-dealers, the current debate over the costs of providing advisory services to retail customers has focused on the potential economic effects of broker-dealers being held to the higher fiduciary standard of care. The brokerage industry argues that the imposition of a fiduciary standard will result in an increased risk of a fiduciary breach that would have the effect of increasing the compliance and liability costs of providing traditional broker-dealer services, and, consequently, may make those services too expensive for many lower or middle income clients (Headley, 2011).

Further, while imposing a fiduciary standard of care may provide additional protections for brokerage customers, critics assert that the imposition of such a standard may result in some customers losing access to financial advice if the cost of that advice rises due to the imposition of the standard, or, alternatively, some customers may find that they will have to pay more for the investment advice they receive without experiencing a significant change in service due to the increased regulatory and liability costs imposed by regulation.

In order to test claims that the brokerage industry and their customers would be adversely affected by the imposition of a stricter fiduciary standard, this study surveyed registered representatives (brokers) of broker-dealers in states that impose a fiduciary duty on the provision of investment advice to retail investors, and in states that did not impose such a duty. The survey avoided brokers who are dually registered as investment adviser agents and who, in that capacity, provide fiduciary investment advice. If presence of a fiduciary duty for brokers results in higher costs associated with that standard, it would suggest that states that impose the higher fiduciary standard have a lower saturation of brokers to households within that state. This would imply that there is an additional service cost attached to imposition of the fiduciary standard by reducing the number of service providers for lower or middle-income customers.

V. Differentiating State Law

States were divided into three categories: 1. states that unambiguously apply a fiduciary standard to brokers in that state; 2. states that unambiguously apply no fiduciary standards to brokers; and 3. states where there is evidence of a limited fiduciary standard applied to brokers.

Four states have imposed an unambiguous fiduciary standard on broker-dealers (fiduciary states). These states are California, Missouri, South Dakota, and South Carolina. California, Missouri, and South Dakota courts expressly impose a fiduciary duty on broker-dealers.

California courts, for example, have held that a broker's fiduciary duty requires that he or she act in the highest good faith toward the customer (Hobbs v. Bateman Eichler, Hill Richards, Inc., 1985). Missouri courts have held that, "stockbrokers owe customers a fiduciary duty. This fiduciary duty includes at least these obligations: to manage the account as directed by the customer's needs and objectives, to inform of risks in particular investments, to refrain from self-dealing, to follow order instructions, to disclose any self-interest, to stay abreast of market changes, and to explain strategies" (State ex rel Paine Webber v. Voorhees, 1995). South Dakota courts have held that securities brokers owe the same fiduciary duties to customers as those owed by real estate brokers, including a duty of utmost good faith, integrity, and loyalty, and a duty to act primarily for the benefit of another (Dismore v. Piper Jaffray, Inc., 1999). While South Carolina courts have not expressly stated that broker-dealers must live up to a fiduciary standard, the courts have imposed duties commensurate with those required when a fiduciary duty applies, including a duty to refrain from acting contrary to a customer's best interest, avoiding fraud, and communicating information to the customer that would be in the customer's advantage (Cowburn v. Leventis, 2005). South Carolina courts have clearly imposed a duty of care commensurate with the duty required by a fiduciary that exceeds the suitability standard that applies under federal law to broker-dealers.

States that do not impose a fiduciary standard on broker-dealers are Arizona, Arkansas, Colorado, Hawaii, Massachusetts, Minnesota, Mississippi, Montana, New York, North Carolina, North Dakota, Oregon, Washington, and Wisconsin.

Courts in Arkansas, Hawaii, Massachusetts, Montana, and Washington have expressly stated that, under state law, a fiduciary duty does not exist between a client and a broker-dealer. The U.S. Federal District Court, and the U.S. Court of Appeals for the 8th Circuit have held that under

Arkansas law, no fiduciary duty is owed by a commodities broker to a nondiscretionary account holder (Greenwood v. Dittmer, 1985). Likewise, the Federal District Court of Hawaii has concluded that Hawaii law does not impose a fiduciary duty on brokers (Unity House, Inc. v. North Pacific Inv., Inc., 1996). Courts interpreting Montana and Washington law have expressly stated that a broker–dealer does not owe a fiduciary duty to a non-discretionary account holder (Willems v. U.S. Bancorp Piper Jaffray, Inc., 2005; Chor v. Piper, Jaffray & Hopwood, 1993; Sherry v. Dierks, 1981). Massachusetts courts have expressly stated that "Under Massachusetts law, a 'simple' broker-customer relationship is not fiduciary in nature…" (Pastos v. First Albany, 2001; Vogelaar v. H.L. Robbins & Co., 1965).

Courts in Arizona, Colorado, Mississippi, New York, North Carolina, North Dakota, and Oregon have all concluded that broker-dealers do not owe a fiduciary duty to holders of non-discretionary accounts (SEC v. Raucher Pierce Refsnes, Inc., 1998; Rhoads v. Harvey Publications, Inc., 1984; Hudson v. Wilhelm, 1987; Puckett v. Rufenacht, Bromagen & Hertz, 1991; Fesseha v. TD Waterhouse Investor Servs., 2003; Sterner v. Penn, 2003; Ray E. Friedman & Co. v. Jenkins, 1984; Berki v. Reynolds Securities, Inc., 1977; Wallace v. Hinkle Northwest, 1986). In Minnesota and Wisconsin, state law provides that a broker does not owe a fiduciary duty to customers absent a special agreement between the parties (MERF v. Allison-Williams Co., 1993; Rude v. Larson, 1973; Merrill Lynch v. Boeck, 1985).

The remaining states (Alabama, Alaska, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Nebraska, New Hampshire, New Jersey, New Mexico, Nevada, Ohio, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Vermont, Virginia, West Virginia, and Wyoming) impose either a limited fiduciary standard, or the courts have interpreted state law to impose duties that appear to be fiduciary in nature. In this study, these states are referred to as quasi-fiduciary states. Quasi-fiduciary states impose standards that exceed the suitability standard set forth under FINRA rules, but do not expressly classify broker-dealers as fiduciaries. The duties imposed, and the manner in which they are imposed, vary among these states. In Alaska, for example, courts have found that fiduciary duties arise “when one imposes a special confidence in another, so that the latter, in equity and good conscience, is bound to act in good faith and with due regard to the interests of the one imposing the confidence” (Enders v. Parker, 2003). While the Enders court did not specifically consider whether a fiduciary duty is imposed on a broker-dealer, the court’s standard for imposing a fiduciary duty could reasonably be interpreted to create a duty for a broker-dealer in some circumstances. Other states, such as Connecticut, refrain from imposing an express fiduciary duty, but did find an agency relationship between a broker and a client which required the broker to exercise “reasonable skill, care, and diligence” (Precision Mechanical v. T.J.PFund, 2003). Connecticut’s approach is intriguing in that an agency relationship exists with both the registered representative’s employer (the broker-dealer) and with the customer. Connecticut law, as currently expressed, cannot impose a fiduciary duty on registered representatives due to the inherent conflict of interest created by the state’s imposition of a customer-representative agency relationship which suggests that the registered representative serves two masters, not one. Iowa courts have not traditionally imposed a fiduciary duty on a broker-client relationship, but do so when certain circumstances exist, such as when the client lacks prior investment experience, the advice offered by the broker-dealer is significant, the client relies (to his detriment) on the advice provided by the broker dealer, and the broker-dealer was aware that the client had not read any literature concerning the subject (McCracken v. Edward D. Jones & Co., 1989).

States that impose a limited fiduciary duty include Delaware, Florida, Georgia, Illinois, Kansas, Louisiana, Maryland, Michigan, Ohio, Pennsylvania, Tennessee, and Texas. Almost all of these states impose a standard higher than the suitability standard imposed by FINRA for non-discretionary accounts. Louisiana does not expressly impose a standard of conduct higher than the suitability standard, but does require a court to consider a variety of circumstances when determining whether a higher standard should exist. The items that Louisiana courts must consider include the relationship between the broker-dealer and client, the nature of the account, and the sophistication of the customer (Beckstrom v. Parnell, 1998).

VI. Criticisms of the impact of imposing a fiduciary standard

Under current law, investment advisers are subject to a fiduciary standard under the Advisers Act, while broker-dealers are subject to a suitability standard. Differing client characteristics have resulted in different business models used by investment advisers and broker-dealers to deliver cost effective advice to their clients. Imposing a uniform fiduciary standard on both investment advisers and broker-dealers may have unintended consequences.

Some in the brokerage industry have argued that the imposition of fiduciary regulation will lead to reduced consumer access to financial advice, particularly among middle-class households that may not have access to investment advisers. Many broker-dealers provide financial services other than the sale of securities to their clients, including insurance products and brokerage services to qualified retirement plans. The president of the National Association of Insurance and Financial Advisors (NAIFA) testified before the House Committee on Financial Services that broker-dealers are typically subject to both additional state and federal regulation for these services, and these regulations generally provide constraints on behaviors that may be considered abusive (Headley, 2011).

Imposing the higher fiduciary standard than currently applies to investment advisers may increase the compliance costs of broker-dealers. A study conducted by NAIFA in 2010 found that an unintended consequence of imposing a uniform fiduciary standard would be to "negatively impact product access, product choice, and affordability of customer services for those customers who are in most need of these services" (Headley, 2011). Specifically, the study indicated that imposition of a uniform fiduciary standard may "create the potential for market disruption and reduced choices for investors when it comes to who they work with and how they pay for services" (National Association of Insurance and Financial Advisors (in Partnership with LIMRA), 2010). The NAIFA study indicated that most of its members are "concerned that the additional regulatory requirements and potential legal implications of a fiduciary standard could significantly increase their compliance costs" (Headley, 2011; National Association of Insurance and Financial Advisors (in Partnership with LIMRA), 2010). In the NAIFA study, sixty-five (65) percent of NAIFA members indicated that if compliance costs rose by 15 percent, they would limit their practice to affluent clients only (31 percent of those surveyed), would not offer securities to their clients (20 percent of those surveyed), or would increase fees for their clients (14 percent of those surveyed) (Headley, 2011).

An SEC staff study indicated that investors "generally were satisfied with their financial professionals" (Staff of the U.S. Securities and Exchange Commission, 2011), but that customers are confused with the varying standards that apply to different types of financial advisers and based on this conclusion recommended the adoption of a uniform fiduciary standard (Staff of the U.S. Securities and Exchange Commission, 2011). While the industry raised concerns that imposing a uniform standard that increases compliance costs for broker-dealers may result in limited access to suitable investment advice for middle-income clients, the SEC staff noted the possibility that the change in standards might result in reduced administrative and compliance costs (Staff of the U.S. Securities and Exchange Commission, 2011).

Opponents of the fiduciary standard are often criticized for having no data to substantiate claims about increased costs that may arise upon imposition of a uniform fiduciary standard (Consumer Federation of America, 2011). In particular, proponents of a uniform fiduciary standard assert that "claims about increased liability costs associated with a fiduciary duty are…unsupported and ignore the legal environment in which brokers currently operate" (Consumer Federation of America, 2011) because "the SEC proposal makes clear that it intends to provide extensive guidance to assist brokers in implementing the fiduciary standard" (Consumer Federation of America, 2011). Proponents of a uniform standard claim that the SEC proposal "would not require brokers to charge fees", and that the proposal preserves "the ability of brokers to offer transaction-based advice…[while] at the same time…rais[ing] the standard that applies to those transaction based recommendations" (Consumer Federation of America, 2011).

Imposing a fiduciary standard on transaction-based advice may increase the potential for legal liability of the registered representative, requiring the broker to be compensated for that additional risk. NAIFA members have expressed concern that the increased duties they owe transactional clients under a fiduciary standard may result in potential legal implications that increase their cost of doing business (National Association of Insurance and Financial Advisors (in Partnership with LIMRA), 2010).

VII. <u>Methods</u>

In order to estimate how the imposition of a stricter universal fiduciary standard will impact the provision of financial advice within the brokerage industry, we obtained the names and addresses of 544,000 registered representatives active in November 2011 and sorted them into categories based on the application of a fiduciary standard. There are four states that apply a strict fiduciary standard, 14 that apply a limited fiduciary standard, and 32 states (and the District of Columbia) that apply no fiduciary standard.

Our objectives were to assess perceived differences in business conduct among registered representatives sorted by fiduciary regulation and to assess the market saturation (representatives as a proportion of total households) of registered representatives among these states. To assess whether registered representatives' business conduct differs in states that apply a strict fiduciary standard, we developed a survey among a sample of registered representatives in states that apply no fiduciary standard and states that provide a strict fiduciary standard. The survey was conducted in the months of November and December, 2011. Participants were drawn randomly from both categories of states and were asked twelve questions. These questions were based on brokerage industry statements and testimony before Congress suggesting that a stricter fiduciary standard will result in differences in ability to serve moderate wealth customers, to offer a variety of products, to provide product recommendations that are in the best interest of their customers, and whether representatives experience a greater compliance burden. Representatives were phoned in their offices and those dually registered as investment advisers are excluded from the analysis since we are unable to differentiate whether their responses relate to their activities conducted under a fiduciary or suitability regime.

Broker-dealers in fiduciary and non-fiduciary states were asked the following questions:

1. Are you a registered investment adviser? (If so, survey is over.)
2. What percentage of your clients have incomes of less than $75,000?

3. What percentage has investable assets of over $750,000?
4. Are you able to serve the financial needs of low to moderate wealth clients?
5. Do your state's security regulations limit your ability to recommend a broad range of financial products?
6. Do you offer your clients a choice of financial products that meet their financial needs and objectives?
7. Do you provide advice tailored to the specific needs of your clients?
8. Do you feel that less affluent clients avoid obtaining your services due to cost?
9. Are you able to recommend products that provide a commission?
10. How significant is the cost of compliance?
11. Do you feel that you make product recommendations that are in the best interest of your client?
12. Among the following options, which do you consider to be the most important single factor in pricing your investment advice to clients: competition in the marketplace, firm brand, personal qualifications, legal and compliance burden, or other?

In order to provide insight into whether the imposition of stricter fiduciary standards leads to reduced supply, we compared the saturation of registered representatives within the total population of states sorted into the three fiduciary categories (strict, limited and no fiduciary standard). Individuals complete examinations conducted by FINRA in order to become registered representatives that are able to facilitate transaction with individual investors. Completion of the Series 6 and Series 7 examinations is necessary to sell, respectively, investment company products and individual securities, to the public. Only registered representatives who have completed Series 6 or Series 7 examinations were included in the analysis.[1] We provide both a descriptive comparison of saturation among states and a multivariate analysis that includes dummy variables for strict fiduciary and non-fiduciary standards with limited fiduciary as the reference category. Due to the small sample size (50 states and the District of Columbia), we include one control variable to account for the log of mean household income within the state.

[1] This constraint excludes less than 5% of the original sample and has no impact on the empirical results.

New York housed five of the 17 largest broker-dealer firms in the United States in 2011 (Investment News, 2012). The saturation of brokers within New York state is more than three times the national average and twice as high as the second largest state (Colorado). Since New York is the traditional center of the brokerage industry and may include a large number of registered representatives not primarily engaged in selling securities directly to individual clients, we include descriptive statistics with and without New York state and include an additional multivariate analysis with a dummy variable to control for the New York effect.

VIII. Results

Descriptive statistics summarizing the responses received from a random survey of 207 registered representatives in the four strict fiduciary states and the 14 non-fiduciary states are presented in Table 1. The percentage of clients who have an income of less than $75,000 is statistically equal between both groups, and there is no statistically significant difference in either the percentage of high wealth clients or in the percentage of brokers who believe they serve the needs of low and moderate wealth clients. Nearly all respondents believe they are able to provide products and advice that meet the needs of customers. The percent who respond that they are able to recommend commission products is 88.5% in strict fiduciary states and 88.2% in non-fiduciary states. The largest percentage point difference among any of the questions is whether the cost of compliance is significant. 70.9% of respondents in fiduciary states felt the costs were significant compared to 61.9% in non-fiduciary states. This difference, and that of all other questions in the survey, was not statistically significant.

Mean rates of broker saturation calculated as the number of registered representatives divided by the number of households within the state are presented in Table 2. There is a wide range in saturation rates among states from a low of 1.31 per 1,000 households in New Mexico to a high of 13.41 in New York. Average saturation rates are lowest among states with a limited fiduciary standard (3.81) and highest among states with no fiduciary standard (6.33). However, the saturation rates were nearly identical among fiduciary categories when New York is excluded from the non-fiduciary states. Saturation rates are 3.96 for strict fiduciary states, 3.81 for limited fiduciary, and 4.04 for non-fiduciary states.

We then take Missouri, an average-sized state with a fiduciary standard, and compare it with other states that have a population between 2 and 3 million households (Table 3). The broker saturation rate in Missouri (2.65) is equal to that of Tennessee (a limited fiduciary state) and comparable to non-fiduciary states with similar income levels (Arizona is 3.12, Washington is 2.54). Other states with higher incomes have higher saturation rates.

In order to control for state saturation differences that may be caused by differences in income within states, we run a regression modeling individual state saturation rate as a function of fiduciary status and log household income. Results (Table 4) show that there is no statistical difference in saturation rates among fiduciary and non-fiduciary states relative to the reference group of limited fiduciary states. When a dummy variable is included to account for the elevated saturation within New York state, the coefficient suggests that the saturation rate in New York is 8.3 points higher than the predicted rate. Fiduciary status variables remain statistically insignificant.

IX. Conclusions

This study explores the regulation of registered representatives of broker-dealers in order to estimate whether the proposed application of a universal fiduciary standard will have a significant impact on the financial adviser industry. We take advantage of differences in the application of a fiduciary standard to representatives among states in order to test whether representatives already subject to a stricter fiduciary requirement are affected by the higher standard. We conduct a survey of 207 representatives within the four states that apply a strict fiduciary standard and the 14 states that apply no fiduciary standard and find no statistical differences between the two groups in the percentage of lower-income and high-wealth clients, the ability to provide a broad range of products including those that provide commission compensation, the ability to provide tailored advice, and the cost of compliance.

We then compare the ratio of registered representatives to total households among states within the three fiduciary regimes. When New York (which houses a disproportionate proportion of broker-dealer firms) is excluded from the non-fiduciary states, the saturation rate is almost identical between fiduciary, limited fiduciary and non-fiduciary states. A comparison of a moderate size state with strict fiduciary regulation (Missouri) with non-fiduciary and limited-fiduciary states of a similar population suggests a strong similarity among states with similar incomes.

A multivariate analysis of broker saturation that controls for fiduciary and non-fiduciary regulation as well as state mean income yields no significant fiduciary effect even with New York included as a non-fiduciary state. The addition of a dummy variable to account for the New York effect suggests that New York's saturation rate is inflated by 8.3 representatives per thousand households.

Empirical results provide no evidence that the broker-dealer industry is affected significantly by the imposition of a stricter legal fiduciary standard on the conduct of registered representatives. The opposition of the industry to the application of stricter regulation suggests that agency costs that exist when brokers are regulated according to suitability are significant.

Imposition of a universal fiduciary standard among financial advisers may result in a net welfare gain to society, and in particular to consumers who are ill equipped to reduce agency costs on their own by more closely monitoring an adviser with superior information, although this will likely occur at the expense of the broker-dealer industry. These results provide evidence that the industry is likely to operate after the imposition of fiduciary regulation in much the same way it did prior to the proposed change in market conduct standards that currently exist for brokers.

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Table 1: Mean and frequency comparison of registered representatives

Question	Fiduciary States	Non-Fiduciary States	Difference (Fiduciary – NF)	P-Value Equal	DF
% clients income < $75,000	28.0%	27.9%	0.1%	0.982	174
% clients inv assets > $750,000	29.5%	34.5%	-5.0%	0.261	183
Serve needs of low/mod wealth	78.9%	79.8%	-0.9%	0.878	202
Regulation limits product range	21.3%	17.4%	3.9%	0.486	198
Products meet client needs	95.8%	97.3%	-1.5%	0.561	207
Advice tailored to client needs	91.7%	90.1%	1.6%	0.695	207
Less affluent avoid due to cost	23.6%	29.2%	-5.6%	0.374	195
Able to recommend commission	88.5%	88.2%	0.3%	0.936	206
Cost of compliance significant	70.9%	61.9%	9.0%	0.190	191
Act in best interest of client	97.8%	96.3%	1.5%	0.526	202

Table 2: Broker Saturation Rates by States

	Registered Representatives	Households (000s)	Saturation
Fiduciary States			
California	56,945	12,392	4.60
Missouri	6,244	2,355	2.65
South Carolina	2,667	1,753	1.52
South Dakota	737	317	2.32
Total Fiduciary	**69,120**	**16,817**	**3.96**
Non-Fiduciary States			
New York	96,862	7,221	13.41
North Carolina	15,094	3,666	4.12
Washington	6,605	2,601	2.54
Massachusetts	16,207	2,521	6.43
Arizona	7,280	2,333	3.12
Wisconsin	10,164	2,282	4.45
Minnesota	8,644	2,093	4.13
Colorado	14,168	1,942	7.30
Oregon	5,291	1,506	3.51
Arkansas	1,787	1,120	1.60
Mississippi	1,728	1,085	1.59
Hawaii	974	443	2.19
Montana	949	404	2.35
North Dakota	1,049	278	3.77
Total Non-Fiduciary	**186,802**	**29,501**	**6.33**
Total W/O New York	**89,940**	**22,279**	**4.04**
Other States			
Texas	39,005	8,666	4.50
Florida	33,968	7,087	4.79
Pennsylvania	24,223	4,952	4.89
Illinois	17,258	4,768	3.62
Ohio	12,385	4,544	2.73
Michigan	8,130	3,815	2.13
Georgia	7,973	3,488	2.29
New Jersey	24,146	3,176	7.60
Virginia	7,836	2,986	2.62
Indiana	8,339	2,471	3.37
Tennessee	6,539	2,454	2.66
Maryland	9,781	2,122	4.61
Alabama	2,701	1,823	1.48
Kentucky	5,404	1,684	3.21
Louisiana	4,789	1,678	2.85
Oklahoma	3,837	1,429	2.68
Connecticut	12,682	1,361	9.32

Iowa	3,190	1,219	2.62
Kansas	2,691	1,106	2.43
Nevada	1,723	984	1.75
Utah	5,611	873	6.42
New Mexico	996	759	1.31
West Virginia	1,275	742	1.72
Nebraska	2,583	715	3.61
Idaho	1,727	574	3.00
Maine	1,291	550	2.35
New Hampshire	2,818	515	5.47
Rhode Island	2,074	408	5.08
Delaware	1,402	331	4.23
District of Columbia	1,872	256	7.31
Vermont	836	256	3.27
Alaska	593	251	2.36
Wyoming	568	219	2.58
Total Other States	**260,246**	**68,278**	**3.81**

Table 3: Comparison of Broker Saturation

This table compares characteristics of Missouri, a state that regulates brokers as fiduciaries, with all other states that have between 2 and 3 million households.

	State Regulation	Reps/ Hhlds	Median Income	Mean Income	% High Income	% College Education
Missouri	Fiduciary	2.65	45,829	60,760	5.36	25.31
Washington	Non-Fid.	2.54	56,911	73,854	8.99	31.02
Massachusetts	Non-Fid.	6.43	63,961	85,865	13.52	38.54
Arizona	Non-Fid.	3.12	49,214	65,552	6.68	26.12
Wisconsin	Non-Fid.	4.45	50,814	64,463	5.55	25.88
Minnesota	Non-Fid.	4.13	56,456	72,850	8.35	31.59
Virginia	Other	2.62	61,090	82,369	12.83	33.92
Indiana	Other	3.37	46,529	60,275	4.90	22.70
Tennessee	Other	2.66	42,612	58,360	5.37	22.92
Maryland	Other	4.61	70,017	90,800	15.18	35.58

Table 4: Broker Saturation Regression Analysis

Panel A

Dependent variable is the ratio of registered representatives to households within 50 states and the District of Columbia. Log income is the natural log of mean household income for each state. Fiduciary is a dummy variable indicating the four states that hold representatives to a fiduciary standard, and non-fiduciary includes the 14 states that do not apply a fiduciary standard to representatives. The omitted reference category is the remaining 33 states (and DC) that do not unambiguously treat representatives as either fiduciaries or non-fiduciaries.

Variable	Coefficient	P-Value
Fiduciary	-0.488	0.601
Non-Fiduciary	0.759	0.180
Log Income	8.941	0.000
Adjusted R-Square	0.39	

Panel B

Adds a dummy variable indicating New York State

Variable	Coefficient	P-Value
Fiduciary	-0.542	0.447
Non-Fiduciary	-0.154	0.726
Log Income	7.741	0.000
New York Dummy	8.290	0.000
Adjusted R-Square	0.65	