Featured Article

Written by JOHN SARICH // APRIL 07, 2016

DOL Fiduciary Rule: Much Ado about Nothing?

The Department of Labor announced the finalized amendment changes on the regulations on fiduciary responsibility. These changes impact retirement products including annuities, life insurance, and certain life products. It's timely to take a look at the implications of compliance on carriers, distributors, agents, and advisors.

Over the past 18 months, the retirement industry has attempted to gain a complete understanding of the U.S. Department of Labor's (DOL) foray into regulating the sale of insurance products used by financial advisors to meet the needs of their clients. The major trade association that works with the retirement industry, the

Securities Industry and Financial Markets Association (SIFMA), has been instrumental in working with the industry to get the federal DOL to understand the effects of proposed Fiduciary and Responsibility regulations.

Although retirement products and services have both been the object of regulation, the DOL created a regulatory “concept” that neither the states nor the Securities and Exchange Commission (SEC) have broached: The “Best Interest” rule. Today the DOL provided some clarification about the best-interest rule and it seems like an Emily Litella moment of “oh, never mind.” What the DOL announced today appears to back off from some of the more draconian possibilities for the rule to a more realistic viewpoint.

Where the rule originally said that products and services had to align with an undefined regulatory definition, it now is simply a requirement that the advisor or agent document that they are working in the best interest of the client. Left unaddressed by the DOL in their statement is the issue of commissions and fees and their disclosure. The industry is in a wait-and-see mode regarding the complete set of regulations.

SIFMA noted that this single issue has generated more than 3,500 letters from companies, advisors, and other professionals expressing concern over the concept and scope of the DOL’s proposed rules for companies and professionals who provide products and services to retirement plans. The DOL is using the Employee Retirement Income Security Act of 1974 (ERISA) regulations as their regulatory authority for the proposed regulations.

With the implementation date moved back to January 2018, the DOL has ample time to more fully define their regulatory oversight for products, services, and ongoing costs. Although the DOL’S announcement gives some solace to the retirement industry, most will continue to cast a wary eye at the agency. For example, as yet it is unclear how the DOL regulations will affect the common commission of overrides and other compensation paid to regional managers, distributors, and others; however, the overall intent of the regulations is to have all sales commissions and charges disclosed and reported to the client as well as to the DOL. Either way, it would do well for the industry to prepare for a more complex set of regulatory requirements because, as history shows, it rarely gets simpler.

With the added information released by the DOL, it does appear that while the DOL has moved away from a very intrusive regulatory scheme, the final regulation is still of concern. Based on the initial thrust of the regulations, we believe our software is fully capable of meeting client requirements quickly, once the details of the regulations are disclosed at a future date.

End of Article

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As Vice President of Strategy at VUE Software, John Sarich serves a senior solutions architect, strategic consultant and business advisor with over 25 years of insurance industry experience. He uses his extensive knowledge of insurance operations, information technology (IT) systems, sales and marketing to develop and define operational strategies for the company's sales and marketing initiatives.

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