GUEST COLUMN

Consider your own bold moves

During the recent election season, *U.S. News & World Report* found that Wall Street poured roughly $1.5 million a day into campaign contributions and federal lobbying.

Such aggressive spending indicates Wall Street's continued opposition to the Dodd-Frank financial reforms proposed in 2010. Most imminent among them are Department of Labor (DOL) regulations set to impact retirement accounts, investors and financial service providers beginning in April 2017. Investors should know what is at stake and why many in the financial industry are fighting the act.

The Dodd-Frank Act contained sweeping revisions to financial services regulation, largely in response to 2008's Great Recession. One provision called on the Securities and Exchange Commission (SEC) to craft a uniform fiduciary standard of care for investors. Six years later, the now-outgoing chair of the SEC said that such rules won't be coming "anytime soon."

In response to the SEC's inaction, the DOL stepped in to provide broader fiduciary guidelines. Already the primary regulator of private sector retirement plans under the Employment Retirement Income Security Act (ERISA) of 1974, the DOL extended ERISA coverage to IRAs and IRA rollover accounts under regulations proposed in 2015. Still steeped in controversy, this set of regulations – referred to as the DOL Fiduciary Rule – takes effect April 2017.

This assertive move by the Labor Department sent a tidal wave through the financial services industry. Under pre-Fiduciary Rule regulations, financial products distributors have not necessarily been required to act in the best interest of their clients. Broker dealers and insurance companies, for example, have been held to a lesser suitability standard.

The suitability standard effectively gives licensed representatives a wide berth to recommend investment products as long as they are not excessively risky and correspond to an investor's basic objectives and means. In contrast, Registered Investment Advisers (RIA) are held to a fiduciary standard and must put their clients' best interests ahead of their own potential financial gain. Practically speaking, those held to a fiduciary standard may not make recommendations

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influenced by unseen revenue or compensation, whereas those held to the suitability standard can be financially incentivized to sell certain investment products.

This distinction is one reason why many in the financial services industry oppose the Fiduciary Rule. Once the new regulations go into effect, anyone providing retirement investment advice will be required to adhere to a fiduciary standard. This change will almost certainly have massive repercussions.

After studying costs passed to investors, fees, revenue-sharing relationships, methods for charging and disclosing commissions and other practices used by financial services firms, the DOL will "impose basic standards of professional conduct that are intended to address an annual loss of billions of dollars to ordinary retirement investors as a result of conflicted advice."

Since the DOL's rule was first proposed, many financial services firms and professionals have been searching for ways to comply while redrawing the map to achieve their historical revenue patterns.

Despite new uncertainties surrounding the fate of these regulations, the Wall Street names you know have little choice but to prepare for the imminent effective date, even while hoping the DOL's Fiduciary Rule goes away. These firms are adopting a wide range of proposed steps for life after the regulation – so diverse, in fact, that one could argue that their strategies are driven more by profitability concerns than the spirit of the rule, which is client advocacy.

For example, one firm we are watching has taken steps to remove all mutual fund and ETF selections from retirement accounts, and all other product-related services will be commission-based. Another firm has taken a different approach, allowing only fee-based arrangements for future plans, while still offering wide product access. Other firms have yet to announce their plans, while anxious compliance departments are looking for ways to broadly enforce rules upon a highly diverse population of advisors and salespeople.

On the whole, Registered Investment Advisors (RIAs) and trust companies are facing the least upheaval. These types of businesses, with professionals operating as fee-based planners, advisors and advocates, have long embraced the fiduciary standard.

To be sure, all significant regulatory change brings some administrative frustration, but RIAs generally support this step to advocate for better investor care, which can be supported and substantiated by fully disclosed fees, expenses and service standards.

The greatest risk to these smaller, more focused RIA firms may in fact be the new competition of a number of adventurous advisors who are savvy enough to jump ship from Wall Street and join their ranks as fiduciaries-by-choice.

Regardless of whether the Fiduciary Rule is implemented on schedule or delayed by more contentious debate, the discussion over investor protection has been brought to the forefront by the DOL and now must continue.

The regulatory process and the traditional industry's reaction to it have forced a reexamination of business practices across the financial services profession, and one could argue that, in terms of investor education alone, the dialog can only be healthy.

The DOL Fiduciary Rule has widely been reported as the most significant regulatory change to benefit investors in more than 40 years.

Investing for retirement and other significant life goals is of critical interest to most Americans. Do you want an advisor who is merely required to make suitable investment recommendations?

Or, would you prefer an advisor who actively takes a role in helping you achieve your financial goals by recommending investment solutions that are in your best interest? You deserve to know what obstacles might be standing in the way of your receiving the best advice possible.

To read Brian Fowler's unabridged column, visit **http://bizj.us/1p0iby**