NOTTINGHAM ADVISORS
ASSET MANAGEMENT

A Monthly Newsletter from Nottingham Advisors - *Issue VI*

The Focused Fiduciary

Welcome to our 6th edition of the Nottingham Focused Fiduciary. In this month's issue we will discuss the Department of Labor Fiduciary Rule and what this will mean for you the ***Investor*** and the ***Advisor***.

What is the Rule?

Originally brought to the table on *April 20, 2015*, the *Fiduciary* "**Conflict of Interest Rule**" regulation will define who is a *Fiduciary* of both an:

Employee Benefit Plan under ERISA (Employee Retirement Income Security Act of 1974)

And,

Individual Retirement Plans under the IRS (Internal Revenue Service Code of 1986)

The regulation will treat individuals as a *Fiduciary* if they provide investment advice or recommendations to:

- ✓ Employee Benefit Plans
- ✓ Qualified Plan Fiduciaries (Board Members)
- ✓ Qualified Plan Participants (Constituents)
- ✓ Beneficiaries
- ✓ IRA's, 401Ks
- ✓ IRA Owners

*Existing ERISA and IRS Code regulations have been replaced.

However, the Department of Labor (D.O.L.) has also changed the definition of Investment Advice. As mentioned in a previous Focused Fiduciary issue, Investment Advice was based on a five part test. Now the interpretation is more general to multiply its impact across financial professionals. We'll discuss this further in a later issue. It is rather difficult to summarize legislation in a one page brief, so I encourage giving Nottingham Advisors a call if any questions arise concerning the rule.

What does this mean for Advisors?

Advisors will be allowed to continue to set their own practice compensation if they qualify for the "*best interest contract exemption*." To qualify the firm has to do three things:

- ➢ The firm and advisor must commit to providing advice in the client's best interest.
- ➢ The firm must claim to have adopted policies and procedures that mitigate conflicts of interest.
- ➢ The firm must outline and disclose conflicts of interest or any fees that might prevent the advisor from providing advice in the client's best interest.

What does this mean for Investors?

The new regulation will strengthen consumer protection and hold advisors more accountable.

The D.O.L. currently can enforce actions against fiduciary Plan Sponsors & Participants if investment advice is not given in client's best interest. However, the "best interest contract exemption" will now permit the individual client to take action regarding Individual Retirement Accounts.

Lastly, the IRS can impose an excise tax on transactions if it is conflicted advice not eligible for one of the many exemptions.

As always, if you have any questions regarding your Fiduciary role please feel free to give Nottingham Advisors a call at 716-633-3800 or contact me by e-mail at brock.wilkinson@nottinghamadvisors.com.

In the next article we will discuss the anatomy of an Investment Policy Statement. If you'd like any other topics explored for future newsletters, please feel free to contact me. Thank you for reading, and have a great day.