

Fiduciary Rule Could Be Years Away: Industry Experts

It looks increasingly likely that SEC Chairwoman Schapiro will leave her post by year-end, even if Obama is re-elected

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While there is a “small chance” that Securities and Exchange Commission (SEC) Chairwoman Mary Schapiro will issue a proposed rule to put brokers under a fiduciary mandate by year-end, the most likely scenario is that, in the “short term (over the next three to four years), we aren’t going to see any fiduciary rule with teeth,” Knut Rostad, president of the Institute for the Fiduciary Standard, told AdvisorOne on Wednesday.



“I think regulators will continue to punt” the fiduciary issue, Rostad (left) said. “In the short term at least, protecting the fiduciary standard will have to come from the advisory profession itself.”

Indeed, Schapiro herself, who has been a staunch advocate of putting brokers under a fiduciary mandate, could likely be departing her post at the end of this year. Rostad and David Tittsworth, executive director of the Investment Adviser Association (IAA) in Washington, say conventional wisdom is that it is unlikely Schapiro will continue as chairwoman next year, even if President Obama is re-elected.

While it’s certainly not unusual to see a “fair amount” of turnover at federal agencies in the wake of a presidential election, Tittsworth says that if Republican presidential hopeful Mitt Romney wins the White House, it’s widely expected that he will appoint a replacement for Schapiro.

“Significant changes in the composition of the commission” could well occur after the elections, Tittsworth says, “and those changes may very well determine the fate of the Section 913 [fiduciary] rulemaking.”

Dan Barry, managing director of Government Relations & Public Policy for the Financial Planning Association (FPA), agrees that “adopting a fiduciary rule is going to take a very long time—possibly years.” Any data gathering and cost-benefit analysis, Barry says, “will necessarily be time consuming, and that’s just laying the groundwork for drafting a rule that could be put out for comment.”

But Rostad and other fiduciary advocates continue to champion the fiduciary standard, with the Institute for the Fiduciary Standard christening September as Fiduciary September.

As part of the month-long fiduciary awareness campaign, twelve leaders in the financial services industry—including Vanguard founder John Bogle, former SEC Chairman Arthur Levitt, and former FDIC Chairwoman Sheila Bair—plan to present a “fiduciary declaration” to Schapiro, members of Congress and the Department of Labor (DOL), urging them to “heighten and extend protections to investors receiving investment advice.”

The institute plans to hold a meeting with Schapiro on Sept. 11 to discuss the declaration, which the institute says is “an initiative that seeks to urge policymakers and industry participants to faithfully apply and uphold the fiduciary standard for investment advice.”

The twelve signatories of the Fiduciary Declaration are: Bair, Alan Blinder, Bogle, Peter Fitzgerald, Tamar Frankel, Andrew Golden, Roger Ibbotson, Levitt, Daniel Kahneman, Burton Malkiel, David Swensen and Paul Volcker.