CFP BOARD Delays Enforcement of Its Fiduciary Standard

In response to input from industry organizations, CFP Board has opted to give financial planners more time to comply with its updated fiduciary rules.

CFP Board said it would not weaken its updated, more stringent fiduciary rules in response to the SEC’s recent Regulation Best Interest, but it will give CFP® professionals until June 30, 2020 before they will hold them accountable for adhering to its new Code of Ethics and Standards of Conduct.

“We appreciate the valuable input of CFP® professionals, their firms, trade associations, and membership organizations representing CFP® professionals in helping the Board come to this decision,” said CFP Board Chair Susan John in a news release. “It is now time for all of us to pull together and comply with the new standards so that we can provide the public with the highest level of financial advice.”

The Financial Planning Association was among the organizations urging the certifying body to delay the enforcement of its new rules, which go into effect Oct. 1, noting that the diversity of its membership base includes dually registered advisers who might need more time to comply.

“By giving professionals more time to make the necessary business adjustments to ensure full compliance, CFP Board is demonstrating their responsiveness to the needs of the CFP® professional community as they look to embrace the new Standards,” FPA said in a statement after the delay was announced.

That is not to say, however, that FPA is in favor of revising or altering the rule to be any less stringent.

“We have been steadfast in our support of the new Standards and their effective date of Oct. 1, 2019,” the FPA statement said. “The new Standards are right for the profession and those bearing the CFP® marks.”

There remains concern, however—expressed in various industry publications—that CFP Board’s new Standards might conflict with the SEC’s investment advice rule package, which does not hold brokers to a fiduciary standard. There has also been speculation that individuals would drop their CFP® certification rather than comply with the rules. However Financial Planning reported in a recent article titled, “CFP Board Willing to Lose Thousands of CFPs, If Necessary, over Fiduciary Issue,” that CFP Board does not expect they will see an “exodus” of its more than 84,000 CFP® certificants.

“We really hope it doesn’t come to that,” John told Financial Planning. “In the terrible event that that happens, we are fully prepared to deal with it.”

—Amy Fontinelle, financial journalist, Investopedia
States Attempt to Pick Up Slack of Fiduciary Rule Defeat, Reg BI

The Department of Labor’s fiduciary rule was vacated by a U.S. circuit court in 2018. Some states are looking to fill the hole left by that defeat—and fill what they feel are gaps in the SEC’s Regulation Best Interest—with their own state-level fiduciary rules for financial planners and broker-dealers. Some states had already begun the process of implementing their own rules prior to the fiduciary rule defeat.

While Nevada, New York, Massachusetts, Connecticut, Illinois, and Maryland have attempted to implement their own fiduciary rules, New Jersey had been stealing headlines at the time of this writing in July, as it had recently closed the comment period on its proposed rule.

Forbes reported, in an article titled “What a New Jersey State-Level Fiduciary Rule Might Mean for Brokers,” that the New Jersey rule would impose a uniform best interest standard on RIAs and broker-dealers alike. Proponents of the New Jersey rule say it picks up the slack left by the SEC’s recently passed Reg BI, which they say does not go far enough to protect investors. Opponents claim the rule would be at odds with Reg BI and would create confusion for RIAs and broker-dealers alike.

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An InvestmentNews editorial noted, “Whether broker-dealers or investment advisory firms like it or not, states have the right to propose such rules.”