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Dalbar Creates New Fiduciary Standard For Advisors

Fiduciary fever is spreading, from the recent Securities and Exchange Commission study recommending a uniform fiduciary standard for both broker-dealers and investment advisors to U.S. Department of Labor efforts to extend its own, tougher fiduciary standard to anyone offering advice regarding retirement plan assets, including IRAs. And now there's the Registered Fiduciary (RF) standard created by Dalbar Inc., a Boston-based financial services market research firm.

According to Dalbar, the RF designation was established to help broker-dealers, investment advisors and other financial professionals and organizations comply with a regulatory landscape that's calling for greater fiduciary emphasis to act in a client's best interest when providing investment advice. That emphasis comes at the expense of the suitability requirement that governs broker-dealers.

"People have feared the fiduciary standard because of liability concerns," says Lou Harvey, Dalbar's president and CEO. "The Registered Fiduciary provides advisors with a consistent, verifiable decision-making process that protects both the advisor and the firm from fiduciary liability."

The program's curriculum is put together by the Foundation for Fiduciary Studies, a nonprofit group that develops registered standards for investment fiduciaries. Training to meet the requirements will be provided by a number of qualified training organizations, or QTOs. Dalbar, as the registrar of the designation, will oversee certification and issuance of the standard.

Information about the RF designation can be found at www.FiduciaryRegistry.com. The program is up and running, and Harvey says they'll start publicly promoting it this spring after all of the pieces are in place.

ERISA As A Guide

Harvey says the RF designation is consistent with DOL fiduciary requirements under the Employee Retirement Income Security Act of 1974 (ERISA), generally acknowledged as being more stringent than the fiduciary standard for investment advisors under the Investment Advisers Act of 1940.

"The '40 Act is a principles-based standard, meaning 'here are some principles, so act in the best interest of your client,'" Harvey says. "It ends there, and almost invariably involves a court case when there's something involved. With ERISA, the DOL has proscriptive rules that lay out transactions that can't be engaged in. That's a huge difference."

RF candidates on average will undergo 15 to 20 hours of training via classrooms, self-study or online. The object is to create a consistent process that can stand up to regulatory scrutiny. That entails having reliable decision making throughout the entire client relationship, understanding the roles and responsibilities of an investment fiduciary, and backing it up with proper documentation.

RF training and technology tools cover such areas as prospecting, investment policy statements, vendor searches, quarterly reports and investment model management.

Harvey says the RF standard provides a uniform structure tied to a core curriculum, with additional layers for various specialties

including 401(k) plans, wealth management, foundations and endowments. “If you’re a 401(k) fiduciary, there are things you have to learn about ERISA,” he says. “Which is different from someone working with high-net-worth individuals who must learn a different set of duties.”

The RF designation fees of $350 cover a proctored exam and a background check. There will be an annual $250 renewal fee.

The QTOs who administer training programs are people experienced in the industry who know fiduciary standards and practices, Harvey says. One of those QTOs is Stephen Winks, chairman of PCT Research and Consulting in Richmond, Va.

“We can work with an advisor’s firm to create a prudent process and cover areas like technology, a functional division of labor tied to workflow management, and conflict of interest management,” Winks says.

Winks notes there are objective fiduciary criteria based on non-negotiable, statue case law. “The DOL has significant influence over what those standards are,” he says. “That same standard could be applied to brokers, and the industry is waking up to the fact that it will have to do things differently.”

Don Trone, founder of the Foundation for Fiduciary Studies, says the RF designation is aimed at all financial professionals, not just brokers. But if current efforts by the SEC (whose recent study on standards of care for investment advice was mandated by the Dodd-Frank bill) and DOL to expand fiduciary responsibilities come to fruition, it would certainly impact the broker-dealer industry.

“With Dodd-Frank and the DOL, it’s conservatively estimated there will be 200,000 more professionals who’ll be held to a fiduciary standard in the next year or two,” Trone says.

Competition

Ultimately, Harvey says, the goal for the RF standard is that it will become a global standard to record somebody as being a fiduciary. “That’s something that really doesn’t exist today.”

That said, the RF designation isn’t the first fiduciary-centered financial designation. The Accredited Investment Fiduciary, or AIF standard, is overseen by fi360, a fiduciary advocacy and education group in Sewickley, Pa. There are roughly 5,000 AIF certificants, according to fi360. Most of those are investment advisors, but they also include investment managers and investment stewards such as plan sponsors, investment committee members and trustees.

The AIF standard is a pre-requisite for the Accredited Investment Fiduciary Analyst, or AIFA standard, which counts about 500 certificants among people trained in doing fiduciary audits.

As for the RF designation, Blaine Aikin, fi360’s president and CEO, says it’s only natural there would be competition in the marketplace. “I think that’s a healthy thing,” he says.

Aikin says his group’s mission is to promote the culture of fiduciary responsibility throughout all channels that dispense investment advice. “One of the problems in the marketplace is the lack of understanding of the fiduciary role,” he says. “It’s important for everyone who’s in financial services and providing advice to have a thorough knowledge of what the fiduciary standard is all about.”

But that doesn’t mean all AIF holders act as fiduciaries for their clients. “If someone is trying to stay on the non-fiduciary side of the line, they can have a better understanding of where that line is,” Aikin says. “For those on the fiduciary side, we want to make sure they apply that knowledge in a fiduciary capacity.”

One of the differentiators of the RF standard is that designees must be full-time fiduciaries, which Harvey says provides a seal of approval to an investor that they're dealing with someone who puts the client's interest above their own.

Big Plans

Harvey believes the changing fiduciary landscape—either from a proposed uniform fiduciary standard for both broker-dealers and RIAs, from the DOL's proposed expanded standard, or both—could attract advisors to the RF standard. "They'll willingly jump on board," he says.

But it's not a given the SEC will ultimately impose a uniform fiduciary standard. The Dodd-Frank bill mandated only that the SEC conduct a study on the different standards of care that apply to broker-dealers and investment advisors, which led to the agency's recommendation in January to apply a uniform standard across the board and that it should jibe with the current standard that governs investment advisors. Subsequent rulemaking is optional.

And if the agency ultimately decides to do rulemaking on a uniform standard, that entire process would take months—if not years. And there's no guarantee the DOL will stick to its guns and expand its definition of the fiduciary standard as it applies to retirement assets under ERISA.

Harvey acknowledges that demand for the RF designation "would be a fraction of what we expect it to be" if a uniform standard doesn't happen and/or if the DOL backs off on plans to broaden ERISA fiduciary requirements. "But I'm convinced the ERISA version will go forward, which is why we've got our pedal to the metal on it [the RF standard]," Harvey says.

Of course, the next step beyond that is whether the RF designation can grab market share in an industry already overloaded with a proverbial alphabet soup of professional designations.

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Innovest Appointed as Qualified Training Organization for Registered Fiduciary™ Designation

In 2010, Innovest was appointed as a Qualified Training Organization (QTO) to provide training for fiduciaries that seek the RF™ designation. A QTO delivers the required training and continuing education to trustees to obtain and maintain the Registered Fiduciary™ or RF™ designation. The Registered Fiduciary™ designation identifies individuals and organizations as competent fiduciaries that have achieved pertinent educational qualifications and licenses, learned required skills, and have passed a background check.

About Innovest

Innovest is an independent registered investment advisor, with approximately $4.1 billion under management. Our culture is client-centered, risk-focused, and performance-driven. Over the years, we have built a team of talented professionals with expertise in a variety of disciplines that benefit our clients. Relying on a talented staff, we serve a cross-section of clients which include large municipalities, respected corporate organizations, and prominent foundations. Our clients are not hiring a name, they are hiring a team.