New Evidence of Fiduciary Rule's Harm, Chamber Report Says

Obamas DOL underestimated the negative effects of the rule, says Chamber of Commerce; CFAs Roper, though, blasts report.

By **Melanie Waddell |** May 30, 2017 at 10:18 AM

The U.S. Chamber of Commerce charges in a just-released report that new data coming out of a recent Department of Labor comment period on its fiduciary rule proves the rule is hurting small retirement savers.

The report, "The Data is In: The Fiduciary Rule Will Harm Small Retirement Savers," compiles survey statistics and other data submitted by various organizations in response to the recent comment period opened up as part of President Trump's Feb. 3 directive to review the rule.

Chamber says that its survey indicates that the DOL "underestimated the negative effects of the rule, particularly in reducing access to advice for small retirement savers and small businesses."

The Chamber report points to the following troubling statistics:

- 92% of firms surveyed say that the rule could limit or restrict investment products for their customers, which could ultimately affect some 11 million households;
- Up to 7 million individual retirement account owners could lose access to investment advice altogether;

- A survey of insurance service providers shows 70% already have or are considering exiting the market for small balance IRAs and small plans, and half are preparing to raise minimum account requirements for IRAs;
- A survey of advisors finds 71% will stop providing advice to at least some of their current small accounts due to the risk and increased costs of the rule;
- Other surveys found that 35% of advisors will stop serving accounts under $25,000, and 25% will raise their client minimum account thresholds; and
- One large mutual fund provider reports that its number of orphaned accounts nearly doubled in the first three months of 2017, and that the average account balance in these orphan accounts is just $21,000. Further, it projects that ultimately 16% of the accounts it services will be orphaned this year because of the fiduciary rule.

"A consistent set of themes emerges from the compilation of this data: small-dollar investors will lose out if this rule goes into effect. They'll either be dumped from their plans, they'll have fewer choices with less advice, or they'll be subject to a more expensive advisory relationship that may not be the right option for them," David Hirschmann, president and CEO, U.S. Chamber's Center for Capital Markets Competitiveness, told ThinkAdvisor on Tuesday. "In a nation where far too few are saving for retirement, investors will find it much, much harder to get the advice they need. The evidence of the negative impact is clear, and that's why the DOL, the [Securities and Exchange Commission] and Congress need to act now to protect the ability for Americans to save for a dignified retirement."

Chamber is among the nine groups appealing their case against the fiduciary rule in a Texas court. The groups recently asked the judge overseeing the case to turn down DOL's request to extend filing its June 2 response brief. The coalition of firms still fighting the rule — which includes the Chamber, the Securities Industry and Financial Markets Association and the Financial Services Institute, has filed in opposition to that request.

Barbara Roper, director of investor protection for the Consumer Federation of America and a staunch fiduciary rule supporter, told ThinkAdvisor on Tuesday that industry opponents of Labor's fiduciary rule "certainly want to get the SEC involved, presumably because they are confident they can get the watered-down rule from SEC that they failed to win from DOL."

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As to Chamber's report, "There's nothing here [in Chamber's report] that withstands close scrutiny," Roper said.

Take Chamber's example that retirement services will become more expensive, Roper said, in the report's infographic on "Jane's $20k retirement account."

"There are lots of fiduciary advisors who would be happy to serve an account of that size," Roper said.

If “Jane” is forced to shop around for a new “advisor” because the brokerage firm she currently works with will only serve her account if it can profit at her expense, she will likely benefit, and benefit significantly, by moving to a fiduciary advisor,” Roper asserts.

“Even if she ends up paying a fee, a big ‘if’ given the number of firms who will continue to offer commission accounts, her new advisor will likely recommend lower cost investments, significantly improving the long-term performance of her account,” Roper added.

As the Consumer Federation explains “at length in our comment letter,” Roper said, “there’s simply no support for this argument that investors are going to lose access to advice. If some accounts do end up being dropped, they will have other, better options in the marketplace. Despite industry’s prophecy of doom, it is clear that advice will be available to even the smallest accounts and under a variety of business models.”