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Meet the Retirement Savers Who Oppose the Fiduciary Rule

Though Labor Department regulation has broad backing, some retirement savers say the effort to protect them restricts their choices instead

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Judith Friedlander, an 80-year-old retiree from Murrieta, Calif., doesn't appreciate the government trying to regulate how she manages her roughly $400,000 individual retirement account.

After the Labor Department last year approved the fiduciary rule, which generally requires advice on retirement assets to be conflict-free, Ms. Friedlander says her financial adviser suggested she transition from a commission-based account of the sort that could run afoul of the rule into a fee-only account.

But Ms. Friedlander isn't interested in a switch. She trades only a few times a year and says moving to a fee-only account that charges a percentage of her assets would be far pricier than the periodic commissions she currently pays. "I don't see any advantage to the regulation for someone like me," says Ms Friedlander, who adds that she hasn't decided what to do.

She is part of a group of individual investors who welcome the Trump administration's review of the rule because they don't believe the rule will protect them or save them money. For now, the fiduciary rule's April 10 compliance date is in limbo after the Labor Department filed a formal notice this past week seeking a delay of the regulation.

The Obama administration, in pursuing the fiduciary rule, said its goal was to protect unwitting individual investors from conflicted advice, which can arise with some advisers who are paid commissions or other incentives to promote certain products over others. Obama officials had said conflicted advice costs American families billions of dollars a year and pushes down annual returns on their retirement savings.

A concept of a fiduciary standard was broadly accepted and championed. It was embraced by consumer-protection groups, asset-management firms, registered investment advisers and some of the very broker-dealers whose business stood to be most affected. The argument for fiduciary duty even seeped into popular culture, with comedian John Oliver dedicating an entire episode of his news-satire show to the matter.

But critics say the Obama administration’s numbers are inflated and that situations like Ms. Friedlander’s exemplify the worst-case scenario with the rule—that brokerages and insurers looking to comply with the regulation would pare back investment options, pass along compliance and related costs to savers, and potentially cut off low-balance customers from some forms of professional advice.

“For investors with accounts of a certain size, [for brokers] to comply with the rule, and still use a commission-based fee structure, it just may be so onerous that they may just say, ‘I don’t want to deal with this,’” says Thaya Brook Knight, associate director of financial regulation studies at the Cato Institute, a libertarian think tank.

Some advocates say it isn’t the rule itself that limits consumer choice, but rather the some of the industry’s response to it. Some broker-dealers plan to simply do away with commission-based IRAs to avoid any chance of conflict, while others plan to pursue options that make use of the rule’s exemption to continue offering commission accounts as long as they make clients aware of the potential for conflict.

“In some cases, firms may choose to implement the rule in ways that limit choice, but the rule itself does not require them to do so,” says **Barbara Roper** , director of investor protection at the Consumer Federation of America.

As brokerage firms over the past several months have announced their compliance plans, some approaches have put new limits on IRA investors. Bank of America /quotes/zigman/190927/composite BAC0.00% Corp.’s Merrill Lynch, for example, has said it will no longer offer individual retirement accounts that charge commissions, and will instead favor charging retirement savers a fee based on a percentage of their assets. J.P. Morgan Chase /quotes/zigman/272085/composite JPM -0.07% is taking a similar tack, offering brokerage retirement clients only a fee-based IRA.

Jennifer Morse, a 41-year-old medical director in Clare, Mich., says she believes that some regulation is needed to protect less-sophisticated investors, but feels that the fiduciary rule goes about it in the wrong way. Ms. Morse, who is working along with her husband to build retirement savings and college funds for their two children, says she isn’t a savvy investor and is working with the same financial planner that her parents worked with for years.

“I think regulation and protecting people against conflict of interest is a fantastic idea, but I think we’re focusing on the wrong people,” says Ms. Morse, who, prompted by her financial planner, wrote a letter to the Labor Department in 2015 urging that the rule be weighed against its costs. Rather than restricting advisers, she says, she would rather have those providing investment products limited in what incentives they can offer advisers to sell their products.

Peter Schubert, a 36-year-old engineer who lives in Maricopa, Ariz., with his wife and two children, in 2015 wrote to the Labor Department to oppose the fiduciary rule after he read an opinion piece about it in a newspaper and did some research. “My retirement is my own. I realize that I am free to succeed or to fail and I would [like] to have that freedom for myself," wrote Mr. Schubert, who has less than $100,000 in an IRA and a 401(k).

Mr. Schubert said in an interview that he is concerned about what the government may do with any power it is given and said he feels strongly that "requiring morality through paperwork, no matter how well intentioned, is likely only to lead to a boom for regulators and compliance auditors."