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LAWRENCE SPRUNG: The fiduciary rule is essentially a good rule. || Photo by Bob Giglione

## Rule made to be broken

By: [Bernadette Starzee](#) March 8, 2017 [Q](#)

The Obama administration's so-called fiduciary rule is scheduled to take effect April 10. The rule would require financial professionals who are compensated by commission to act only in their client's best interest when giving advice on retirement investments, regardless of the size of the commission they would get on particular products.



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with the large brokerages arguing that it would hurt profitability and therefore lead to higher fees for customers. However, many of them have taken steps to overhaul their procedures and processes in anticipation of the rule going into effect, and some of the measures they have taken to ensure advice given is in the best interest of clients may be implemented regardless of how things shake out.

“There’s good and bad to everything, but essentially the fiduciary rule is a good rule,” said Lawrence Sprung, president of Mitlin Financial in Hauppauge. “It’s basically saying that advisors who act as brokers and serve individuals who have retirement assets must act as if they were a fiduciary – which means always acting in the best interest of clients. They have to eliminate and expose any conflicts of interest in the relationship.”

Currently, such advisors are only held to a “suitability” standard. They are required to provide a suitable level of care – understanding their clients’ financial wherewithal, they must know whether their clients can withstand certain conditions.

“The new rule calls for a higher standard of care,” Sprung said.

“The good part of the rule is that everyone should be acting as a fiduciary,” Sprung said. “That’s not the case now, and this ruling would help change that.”

An SEC-registered investment advisory firm, Mitlin Financial is not a broker and does not work on commissions, and therefore will not be affected by the rule change. However, financial service providers who are dually licensed as brokers and advisors will be impacted.

“There’s some level of confusion as to when the advisor is wearing his fiduciary hat or his suitability hat,” Sprung said of advisors who are also brokers. “This rule would help clarify that. If you want to deal with people who have retirement assets, you have to work in their best interests at all times.”

However, if the rule goes into effect, investors may be harmed by unintended consequences.



**CRAIG FINE:** No matter what happens, investors should vet advisors and ask lots of questions.

“Some of the larger firms may find that the cost of doing business with smaller retirement investors becomes too high, and they may stop working with them,” Sprung said. This would leave smaller investors with fewer choices.

Whether or not the fiduciary rule sees light of day, it’s on investors to do their homework.

“My advice to clients is to take some of the objectives of the rule, and do your best to utilize these objectives when you first interview or continue to work with an advisor,” said Craig Fine, who is managing partner of the Woodbury office of Mazars USA, an accounting firm that has a wealth management practice. “The key is to make sure the advisors you work with have your best interests at heart, whether they’re formally a fiduciary or not. The challenge has always been to make sure you hold your advisory accountable and understand what they’re charging you, how they’re making money from these transactions and whether what they are recommending is suitable or optimal.”

The process is similar to vetting and working with other types of professionals, Fine said.

“If an investment advisor is moving you in a certain direction, you have to question that direction and ask the right questions about optimization and suitability,” he said.

“The larger advisory firms will have internally adjusted to these rules already and have created these checks and balances,” Fine continued. “They have adjusted their cultures to some degree, so there’s some level of safety. But in any organization you want to

make sure you're working with the right people – some people test systems, and you have to continually be diligent.”

In addition, portals such as BrightScope publish information on retirement plans.

“There’s a lot of information out there for people who want to find it and ask the right questions and be inquisitive,” Fine said.

Whether or not it goes through, “this ruling has shed light on the issue, for people who never knew about the suitability standard and fiduciary standard,” Sprung said.

“If the rule should come to fruition, there would likely be more firms like us out there,” he added. “People are going to start abandoning the commission and suitability business.”

Sprung believes part of the rule will go through.

“I don’t think it will be an all-or-nothing proposition,” he said. “There’s a need for it, to protect investors, and it’s a matter of finding the parts that will work. There was a thousand-page order; there are some things in there that have a lot of credibility and value, and some pieces that are worth abandoning. We will see some shape and form of this rule.”

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It depends on the position we're trying to fill

What jobs?

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Thursday, March 22, 2017

8am - 10am

Crest Hollow Country Club



Today   Friday, March 10  Print

Showing events after 3/10.  
[Look for earlier events](#)

Friday, March 10

8:00am	Technology Capital Forum
8:00am	IHTM Symposium: Social Mer
11:00am	Football Greats Take the Sta
12:00pm	New York Fair Trial Free Pre:
4:00pm	St. Patrick's Day Corned Bee

Monday, March 13

5:30pm	CPLR Update 2017-LI
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Tuesday, March 14

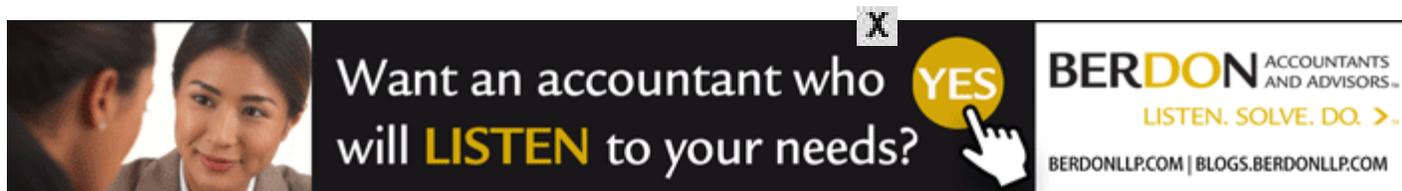
7:00am	Networking Breakfast
7:30am	HR for Small Business
7:30am	Member Meeting
7:30am	Business Referral Networking

Events shown in time zone: Eastern  
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