

Trustworthy Advice:

Is the Fiduciary Standard the New Normal For Financial Advisors?

Findings of the 2012 fi360-AdvisorOne Fiduciary Survey



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For Financial Advisors?***

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Executive Summary

Nearly two years have passed since the Dodd-Frank Act provided the Securities and Exchange Commission (SEC) with a mandate to study and make rules that would extend the fiduciary standard – which currently covers only SEC- or State-registered investment advisers – to any advisor, including brokers who provide advice to individual investors. The SEC has studied the issue, and its staff recommended that the fiduciary standard be extended to include brokers. As of the date of this report, the SEC continues to listen to all sides of the discussion and analyze how best to proceed, and is preparing an economic cost and benefit analysis.

The Department of Labor (DOL) is also working to update ERISA rules that would extend ERISA fiduciary duty to advisors who work with retirement account investors. The DOL has made rules, effective beginning in July, that are intended to provide more transparency of fees that retirement plan participants pay and clarify the roles of the advisors and service providers to the plans.

All of these changes affect the relationships broker-dealer registered reps and dual registrants, and in some cases investment advisers, have with their clients, and raise the caliber of advice many investors will get when they entrust their assets and financial or retirement wellbeing to the investment professionals they engage.

In this environment, fi360 and AdvisorOne.com have, for the second year, surveyed investment advisers and brokers about their attitudes regarding the fiduciary standard. The survey sought not only participants' opinions on the fiduciary standard but also to gauge their understanding of what the fiduciary standard means now, or would mean as they conduct their business in the future.

The survey, open to all brokers and investment advisers, included demographic information about their current compensation model, registration and prior registration status, to indicate trends in how the industry is changing. Note: You will see advisor/adviser spelled two different ways in the report. 'Adviser' indicates an SEC- or State-registered investment adviser who by law is a fiduciary. 'Advisor' is used to group *all who provide advice*, whether fiduciary or not, including investment advisers and brokers.

Key Findings From the 2012 Survey

Survey highlights:

- 97% say investors don't understand the differences between brokers and investment advisers.
- 85% say the gap in professional knowledge between investors and advisors makes fiduciary advice much more important for ordinary investors.
- Almost two-thirds of all participants report to have a fiduciary relationship with their clients
- 71% say a uniform fiduciary standard "no less stringent" than what is currently required of registered investment advisers would raise the credibility of financial service providers
- Nearly three-quarters do not believe that advisors are adequately knowledgeable and trained to practice under the fiduciary standard.

Participants indicate that extending the fiduciary standard:

- Would not cost investors more for advice (82%).
- Would not price investors out of the market for advice (71%).
- Would not limit access to advice or products (65%).
- Eight out of ten believe that disclosures alone are not sufficient to manage conflicts of interest

Regarding the extension of ERISA fiduciary duty to those advising 401(k) or IRA investors:

- 70% agree with the Department of Labor proposal to extend the stringent ERISA fiduciary duty to more advisors.
- 79% agree that fiduciary duty should cover advice on money being distributed out of 401(k)s and IRAs

Fi360 and AdvisorOne appreciate the efforts of the nearly 380 advisors from across the wide spectrum of financial services business models (registered reps, investment advisers and dual registrants) who took the time to complete the survey in March and April of 2012.

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Editor
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Findings and Observations

Survey participants were closely divided as far as current business model: registered investment advisers/investment adviser reps (RIA/IARs) total 54% of participants, an increase of 32% from 41% in 2011's survey, while a combined 45% of respondents are registered rep or dually registered (both registered rep and RIA/IAR) in 2012, down 22% from 58% in 2011.


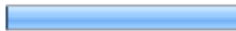

However, survey results showed that *the number identifying solely as registered reps dramatically decreased* to 9.9% of participants in the 2012 survey, less than half of the 22.0% who identified themselves as registered reps in 2011. Dual registrants are 35.6% in 2012, down one percentage point from 36.6% in 2011. *The real growth trend among participants appears to be in the RIA/IAR space*, as RIA/IARs outnumber registered reps by more than 5 to 1 in 2012.

1. How are you currently registered?	2012	2011
RIA/IAR	54.5%	41.4%
Registered rep	9.9%	22.0%
Dually registered	35.6%	36.6%

Migration to the RIA Model

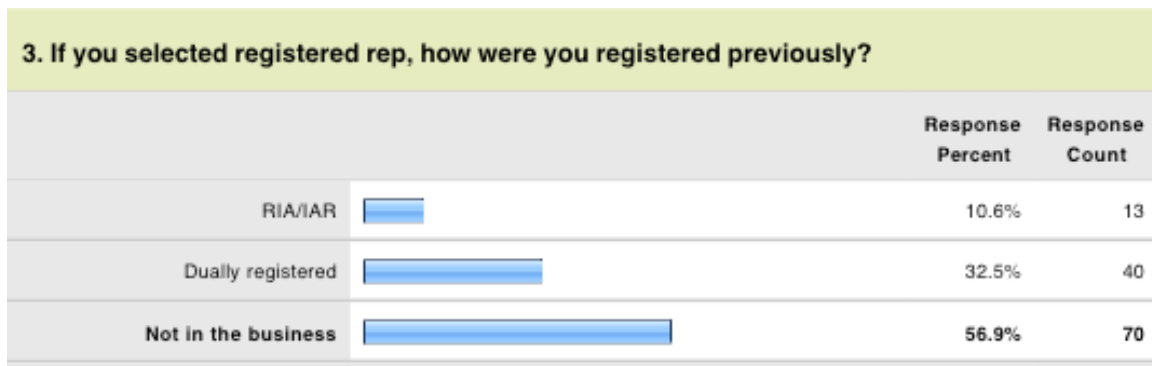
Progression of advisors between types of registrations indicates a strong trend for advisors to enter the industry as registered reps or dual registrants, and then make the change to RIA/IAR, rather than the other way around.

Only about a quarter of advisors who identified themselves as RIA/IARs in 2012 had entered the investment business as investment advisers. The majority, 74.3%, had previously been dual registrants (43%) or registered reps (32%) before making the change to RIA/IAR status.

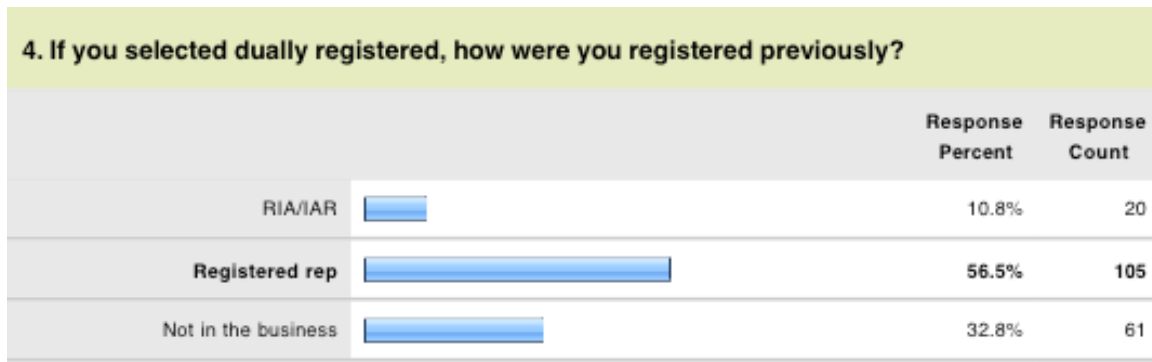
2. If you selected RIA/IAR, how were you registered previously?		Response Percent	Response Count
Registered rep		31.6%	80
Dually registered		42.7%	108
Not in the business		25.7%	65

Migration to the RIA model increases the number of advisors who are adopting the fiduciary model, as RIA/IARs are required to adhere to the fiduciary standard. But other types of advisors are also, individually, operating under the fiduciary model. Overall, 63% of participants self-report that they have fiduciary relationships with all clients, and breaking that down by compensation type shows 96% of fee-only, 85% of fee-based, 27% of fee/commission and 20% of commission-only participants have fiduciary relationships with all clients.

Most who identify themselves as registered reps in 2012 were previously registered reps, 57%, or had been dually registered, 32%, while only 11% switched from RIA/IAR to registered rep.



The path to dual registration is very different. Nearly 90% of dual registrants had been either registered reps before (56%), or started out as dual registrants (33%).



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Participant Compensation

Compensation among different types of advisors was mixed. Overall, **44% of survey participants of all types indicate a fee-only compensation model**, and 43% indicate the fee/commission model. Fewer than 3% of participants are compensated via commissions only.

Commission Compensation Fell, While Fee-only Rose

Compensation Structure	Fee only	Fee based	Fee/Commission	Commission
2012	44.3%	10.6%	42.4%	2.7%
2011	35.9%	8.9%	44.6%	10.6%

Within the different business models, most RIA/IARs (72%) are compensated only by fees, while the majority of dual registrants (75%) and registered reps (68%) listed the fee/commission compensation model. Just 2.7% of all survey participants, and less than a quarter of registered reps are compensated by commissions only.

5. What is your current compensation model?				
	How are you currently registered?			
	RIA/IAR	Registered rep	Dually registered	Response Totals
Fee Only	72.4%	8.1%	9.8%	43.8%
Fee Based	9.9%	0.0%	14.4%	10.5%
Fee/Commission	17.7%	67.6%	75.0%	43.0%
Commission	0.0%	24.3%	0.8%	2.7%

How Much Is Generated in Commissions?

Of those who are compensated by commissions, the majority of 51% have a “commission production” level of \$100,000 or less, while 28% generate between \$100,000 and \$250,000 annually. Another 12% are at the \$250,000-\$500,000 level and 9% generate more than \$500,000 in commissions.

7. If you do receive commissions, what is your annual commission production level?				
	How are you currently registered?			Response Totals
	RIA/AR	Registered rep	Dually registered	
\$1-\$100k	67.4% (31)	45.2% (14)	45.9% (50)	51.1% (95)
\$100-\$250k	21.7% (10)	29.0% (9)	30.3% (33)	28.0% (52)
\$250-\$500k	6.5% (3)	12.9% (4)	14.7% (16)	12.4% (23)
over \$500k	4.3% (2)	12.9% (4)	9.2% (10)	8.6% (16)

Commissions account for 1% to 10% of annual revenue for 30% of participants who include commissions in their compensation model (commission only, fee/commission and fee based). Another 20% indicate that commissions account for 11% to 25% of their annual revenue, while 28% say commissions comprise 26% to 50% of their revenue. Finally, 22% say they generate more than 50% of their annual revenue via commissions.

Commissions as a Percentage of Annual Revenue

8. If you do receive commissions, what percentage of your annual revenue comes from commissions?				
	How are you currently registered?			Response Totals
	RIA/AR	Registered rep	Dually registered	
1%-10%	46.8% (22)	16.1% (5)	27.3% (30)	30.3% (57)
11%-25%	8.5% (4)	32.3% (10)	21.8% (24)	20.2% (38)
26%-50%	21.3% (10)	32.3% (10)	29.1% (32)	27.7% (52)
more than 50%	23.4% (11)	19.4% (6)	21.8% (24)	21.8% (41)

AUM: A Trend Toward More Assets

Assets under management (AUM) are trending higher for survey participants. In 2012, 36% of all survey participants have \$50 million or less in AUM, versus 51% in 2011. That's presumably because asset levels industry-wide are now higher than in 2011. In 2012, 9% of survey participants have between \$250 to \$499 million in AUM, up from 5% in that category in 2011. In 2012, nearly 9% of participants manage \$500 million plus, almost triple the 2011 number of 3%. Even the \$1 billion or more category of AUM has grown, to 9% in 2012 from 6.1% in 2011.

Managing the Assets: Across All Participants

Participants' AUM (in millions)	<\$50	\$50-\$99	\$100-\$249	>\$250	>\$500	>\$1Billion
2012	35.9%	18.0%	18.5%	9.4%	8.8%	9.4%
2011	51.4%	17.3%	16.4%	5.4%	3.3%	6.1%

AUM by Type of Compensation

Looking at AUM year-over-year and how participants are compensated, the highest percentage of participants across all compensation types – fee-only (38%), fee-based (30%), fee/commission (34%) and commission-only (60%) – manage less than \$50 million in AUM. But the percentage of participants managing the lower AUM brackets has fallen in each compensation category since last year, indicating that AUM balances are growing for all participants. That changes on the high end, where no commission-only participants manage more than \$250 million.

Fee-only advisors have the most assets. They dominate the two largest AUM brackets in the survey: 13% of fee-only advisors have over \$1 billion in AUM in 2012, an increase of 46%, from 9% in 2011. Similarly, 12% of fee-only advisors have \$500 million to \$1 billion in AUM, up 142%, from 5% in 2011. The largest area of AUM growth for fee-only advisors is the \$100 million to \$249 million bracket: 20% of fee-only advisors manage \$100 million to \$249 million in 2012, up 170% year-over-year.

Fee-based advisors held their own in the \$1 billion-plus bracket, with 10% of them managing \$1 billion or more, about the same as 2011. However, the percentage of *fee-based advisors managing \$500 million to \$1 billion zoomed to 10% in 2012*, up 194%, from 3% in 2011.

Fee/commission advisors saw growth in the mid range of AUM, with 10% now managing between \$250 million to \$499 in AUM in 2012, up a whopping 206%, from 3% in 2011.

Commission-only participants saw gains in AUM as well; 20% of commission-only participants manage \$100 million to \$249 million in 2012, jumping 340%, from 4% in 2011.

Participants' AUM by Compensation Model

6. What are your assets under management?					
	What is your current compensation model?				Response Totals
	Fee Only	Fee Based	Fee/Commission	Commission	
<\$50 million	37.6% (62)	30.0% (12)	34.2% (54)	60.0% (6)	35.9% (134)
\$50-\$99 million	9.7% (16)	15.0% (6)	27.2% (43)	20.0% (2)	18.0% (67)
\$100-\$249 million	20.0% (33)	20.0% (8)	16.5% (26)	20.0% (2)	18.5% (69)
>\$250 million	7.9% (13)	15.0% (6)	10.1% (16)	0.0% (0)	9.4% (35)
>\$500 million	12.1% (20)	10.0% (4)	5.7% (9)	0.0% (0)	8.8% (33)
>\$1 billion	12.7% (21)	10.0% (4)	6.3% (10)	0.0% (0)	9.4% (35)

Professional Experience

Survey participants are an august group. Nearly three-quarters, 74%, have more than 15 years of professional experience in the financial industry, including 41% of participants with more than 25 years of experience.

9. How many years of professional experience do you have in the financial industry?				
	How are you currently registered?			Response Totals
	RIA/IAR	Registered rep	Dually registered	
5 years or less	4.9% (10)	2.7% (1)	3.0% (4)	4.0% (15)
6-14 years	22.2% (45)	32.4% (12)	18.2% (24)	21.8% (81)
15-25 years	33.0% (67)	18.9% (7)	37.1% (49)	33.1% (123)
More than 25 years	39.9% (81)	45.9% (17)	41.7% (55)	41.1% (153)

Client Relationships

Instead of asking, “***Do you have a fiduciary relationship with your clients?***” as a simple yes/no question, the survey took the opportunity to measure a broker-dealer trend: dual registration, the BD registered rep who is also an RIA/IAR.

Overall, 85% of participants have fiduciary relationships, either with *all* clients (63%), *some* clients (22%), or the 8% who say they have *both* fiduciary and suitability relationships with the *some* clients. Only 7% say they have no fiduciary relationships.

Broken out by type of registration, ***the vast majority of RIA/IARs, 88%, have a fiduciary relationship with all clients***, as you would expect for a group regulated under the fiduciary requirement of the Investment Advisers Act of 1940. However, more than 3% of RIA/IAR participants did not even acknowledge/understand that they are, by law, fiduciaries. They indicated that they do not have fiduciary relationships with any clients – which is incorrect. The relationship between client and RIA/IAR is, under the Investment Advisers Act, fiduciary.

Most dual registrants, 43%, indicate they have fiduciary relationships with *some* clients, while 38% indicate a fiduciary relationship with *all* clients; 14% say they have *both* a fiduciary and suitability relationship with *some* clients, and relatively few have no fiduciary client relationships at all.

Broker-dealer registered reps were more mixed in their client relationships: 35% say they have a fiduciary relationship with *all* clients, another 30% indicate they have a fiduciary relationship with *some* clients, or *both* suitability and fiduciary relationships with *some* clients. And 35% of registered reps say they have no fiduciary relationships with clients.

10. Do you have a fiduciary relationship with your clients?				
	How are you currently registered?			
	RIA/IAR	Registered rep	Dually registered	Response Totals
Yes, all clients	84.7% (172)	35.1% (13)	38.3% (51)	63.3% (236)
No	3.4% (7)	35.1% (13)	4.5% (6)	7.0% (26)
Some are RIA-fiduciary relationships and some are BD-suitability relationships	8.9% (18)	16.2% (6)	42.9% (57)	21.7% (81)
For some clients I have both a fiduciary relationship and suitability relationship	3.0% (6)	13.5% (5)	14.3% (19)	8.0% (30)

Fiduciary Compliance and Training

More firms are supporting brokers and advisors who want to have fiduciary relationships with clients: 58% report that their firms have compliance and documentation support for the fiduciary standard, and 29% offer support for both fiduciary and suitability, while just 12% offer support for only the suitability standard.

11. Which standard of care is supported by the compliance documentation and training provided by your firm?				
	How are you currently registered?			Response Totals
	RIA/IAR	Registered rep	Dually registered	
Fiduciary standard	87.4% (153)	10.3% (3)	26.5% (31)	58.3% (187)
Suitability standard	4.0% (7)	37.9% (11)	18.8% (22)	12.5% (40)
Both	8.6% (15)	51.7% (15)	54.7% (64)	29.3% (94)

Restoring Investor Confidence

The clear majority of participants across all business models believe that extending the fiduciary standard that is “no less stringent” than the Investment Advisers Act of 1940 – which investment advisers must already adhere to – to brokers, would help restore investors’ confidence financial services providers.

12. Do you believe a uniform fiduciary standard for brokers and advisors that is "no less stringent" than what is currently required of registered investment advisers would help restore investors' confidence in financial service providers?

	How are you currently registered?			Response Totals
	RIA/IAR	Registered rep	Dually registered	
Yes	71.8% (125)	53.3% (16)	59.0% (69)	65.4% (210)
No	28.2% (49)	46.7% (14)	41.0% (48)	34.6% (111)

Again, across all business models, *advisors in the field agree even more strongly that a uniform fiduciary standard for brokers, that is “no less stringent” than the Investment Advisers Act of 1940* would raise the credibility of financial service providers.

13. Do you believe a uniform fiduciary standard for brokers and advisors that is "no less stringent" than what is currently required of registered investment advisers would raise the credibility of financial service providers?

	How are you currently registered?			Response Totals
	RIA/IAR	Registered rep	Dually registered	
Yes	74.7% (130)	63.3% (19)	65.0% (76)	70.1% (225)
No	25.3% (44)	36.7% (11)	35.0% (41)	29.9% (96)

Separating Product Sales From Advice

The vast majority of participants indicated there should be clear differentiation between product providers and advice providers, and that titles such as “advisor, consultant and planner” imply that a fiduciary relationship exists.

More than 87% overall say there should be clearer differentiation between product providers and advice providers, up a tic from 86.7% last year.

14. Do you believe there needs to be clearer differentiation between product providers and advice providers?					
		How are you currently registered?			
		RIA/MAR	Registered rep	Dually registered	Response Totals
Yes		92.5% (161)	83.3% (25)	80.3% (94)	87.2% (280)
No		7.5% (13)	16.7% (5)	19.7% (23)	12.8% (41)

More than 71% believe *the titles “advisor,” “consultant,” and “planner” imply that a fiduciary relationship exists*, up from 69% last year

15. Do you believe the titles “advisor,” “consultant,” and “planner” imply that a fiduciary relationship exists?					
		How are you currently registered?			
		RIA/MAR	Registered rep	Dually registered	Response Totals
Yes		74.1% (129)	63.3% (19)	69.2% (81)	71.3% (229)
No		25.9% (45)	36.7% (11)	30.8% (36)	28.7% (92)

Costs and Choice for Investors

Most participants agree it does not cost investors more, reduce product or service choice for investors, or price some investors out of the market for advice to work with an advisor who is a fiduciary than with a broker operating under the less stringent suitability standard.

Nearly 65% indicate a fiduciary duty for brokers would not reduce product or service choice for investors.

16. Do you believe a fiduciary duty for brokers who provide advice would reduce product and service choice for investors?					
		How are you currently registered?			
		RIA/IAR	Registered rep	Dually registered	Response Totals
Yes		30.8% (53)	50.0% (15)	37.6% (44)	35.1% (112)
No		69.2% (119)	50.0% (15)	62.4% (73)	64.9% (207)

More than 82% say it does not cost investors more to work with fiduciaries than brokers when all costs to the investor are considered. That's up from 74% in 2011.

17. Do you believe it costs investors more to work with fiduciary advisors than brokers when all costs to the investor (not only the advisor's compensation) are considered?					
		How are you currently registered?			
		RIA/IAR	Registered rep	Dually registered	Response Totals
Yes		11.0% (19)	56.7% (17)	17.9% (21)	17.8% (57)
No		89.0% (154)	43.3% (13)	82.1% (96)	82.2% (263)

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Almost 72%, up from 67% last year, say the fiduciary standard of care would not price some investors out of the market for advice

18. Do you believe a fiduciary standard of care would price some investors out of the market for investment advice?					
		How are you currently registered?			
		RIA/IAR	Registered rep	Dually registered	Response Totals
	Yes	17.9% (31)	58.6% (17)	36.8% (43)	28.5% (91)
	No	82.1% (142)	41.4% (12)	63.2% (74)	71.5% (228)

These findings indicate a clear dichotomy between attitudes of brokers and advisors in the field and financial services executives.

Regulation Myth or Fact

Some of the familiar myths that surround the potential extension of the fiduciary standard to brokers, as written in the Dodd Frank Act, seem to be eschewed by those who participated in the survey.

The majority of participants correctly say that *the fiduciary standard does not require advisors to only recommend the lowest cost products or services* (though expenses must be controlled and all costs to the investor disclosed and reasons for selecting a higher cost product or service documented).

19. Do you believe the fiduciary standard requires advisors to only recommend the lowest cost products and services?					
		How are you currently registered?			
		RIA/IAR	Registered rep	Dually registered	Response Totals
Yes		5.7% (10)	13.3% (4)	5.1% (6)	6.2% (20)
No		94.3% (165)	86.7% (26)	94.9% (111)	93.8% (302)

When broken out according to registration, RIA/IARs were nearly *evenly divided over whether the fiduciary standard requires ongoing monitoring* of client portfolios or if this was a ‘scope of engagement’ issue to be agreed on between client and advisor. Registered reps as a group, 69%, believe the fiduciary standard requires ongoing monitoring, followed by 56% of dually registered participants.

20. Do you believe the fiduciary standard of care requires ongoing monitoring of clients' portfolios or is this 'scope of engagement' issue to be agreed on between client and advisor?					
		How are you currently registered?			
		RIA/IAR	Registered rep	Dually registered	Response Totals
Ongoing monitoring		49.7% (87)	69.0% (20)	56.4% (66)	53.9% (173)
Scope of engagement		50.3% (88)	31.0% (9)	43.6% (51)	46.1% (148)

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Regarding commission compensation, **53% overall say no, commissions or recommending proprietary products is not prohibitive to acting as a fiduciary**. The Dodd-Frank Act specifically noted that commission compensation and recommending proprietary products were not prohibited under its fiduciary requirements. However, Dodd-Frank did give the SEC the ability to prohibit certain industry practices if they were deemed harmful to investors.

21. Do you believe that receiving commissions and/or recommending proprietary products is prohibitive to acting as a fiduciary?					
		How are you currently registered?			
		RIA/IA	Registered rep	Dually registered	Response Totals
Yes		52.9% (91)	33.3% (10)	40.5% (47)	46.5% (148)
No		47.1% (81)	66.7% (20)	59.5% (69)	53.5% (170)

A Thirst for Knowledge

There appears to be a thirst for fiduciary knowledge that has yet to be quenched. When asked, “*Do you believe that advisors are adequately knowledgeable and trained to practice under the fiduciary standard?*” nearly three-quarters of participants, extending across all models overall, say *more training is necessary*.

22. In general, do you believe that advisors are adequately knowledgeable and trained to practice under the fiduciary standard?					
		How are you currently registered?			
		RIA/IAR	Registered rep	Dually registered	Response Totals
Yes		24.9% (43)	23.3% (7)	27.6% (32)	25.7% (82)
No		75.1% (130)	76.7% (23)	72.4% (84)	74.3% (237)

Disclosures and Conflicts of Interest

The approach to conflicts of interest and disclosure is a very important difference between the BD suitability standard and the fiduciary standard. ***Under the fiduciary standard, investment advisers must avoid conflicts, and where a conflict is unavoidable, manage the conflict in the investor’s interest – and disclose all material conflicts.*** Under the suitability standard, there is no duty to avoid conflicts of interest, though they may be disclosed.

23. Generally, what do you view as the primary role of disclosures in your practice?				
	How are you currently registered?			Response Totals
	RIA/IAR	Registered rep	Dually registered	
Informing investors of products and conflicts so that they can make the best decisions	10.9% (19)	3.3% (1)	12.1% (14)	10.6% (34)
Informing investors of the rationale for your recommendation and advice	15.5% (27)	10.0% (3)	5.2% (6)	11.3% (36)
Neither	10.9% (19)	3.3% (1)	4.3% (5)	7.8% (25)
Both	62.6% (109)	83.3% (25)	78.4% (91)	70.3% (225)

When asked, “***Are disclosures alone sufficient to manage conflicts?***” the vast majority, 81%, across all types of advisors, agrees: ***disclosures alone are not sufficient*** to manage conflicts. Broken out, 84% of RIA/IARs, 80% of registered reps and 76% of dual registrants concur.

24. Are disclosures alone sufficient to manage conflicts?				
	How are you currently registered?			Response Totals
	RIA/IAR	Registered rep	Dually registered	
Yes	16.2% (28)	20.0% (6)	23.9% (28)	19.4% (62)
No	83.8% (145)	80.0% (24)	76.1% (89)	80.6% (258)

Investors’ Lack of Knowledge and the Importance of Fiduciary Advice

It is widely acknowledged through numerous studies that investors do not understand the differences between investment advisers and brokers, and respectively, the differences between the fiduciary standard and the suitability standard. Did brokers and advisors in the field agree? You bet. Overall, **97% say investors do not understand the differences between brokers and investment advisers.**

26. Do you believe investors understand the differences between brokers and investment advisers?					
		How are you currently registered?			
		RIA/IAR	Registered rep	Dually registered	Response Totals
Yes		1.2% (2)	0.0% (0)	6.0% (7)	2.8% (9)
No		98.8% (171)	100.0% (29)	94.0% (109)	97.2% (309)

In addition, there is a widely recognized gap in the knowledge base between professional advisors and individual investors regarding investments and financial services. ***Can the ordinary investor, who entrusts their retirement and financial wellbeing to the broker or advisor they engage, bridge this gap?*** Two-thirds of all surveyed believe that ordinary investors *cannot* bridge this gap in knowledge. While 67% of RIA/IARs, and 64% of dual registrants agree that investors cannot bridge the knowledge gap, an even higher percentage of registered reps, 76%, say that investors cannot bridge this gap.

27. There is a large gap in the knowledge base between professional advisors and that of individual investors regarding investments and financial services. Can the ordinary investor bridge this gap?					
		How are you currently registered?			
		RIA/IAR	Registered rep	Dually registered	Response Totals
Yes		33.3% (58)	24.1% (7)	35.9% (42)	33.4% (107)
No		66.7% (116)	75.9% (22)	64.1% (75)	66.6% (213)

2012 fi360-AdvisorOne Fiduciary Survey

“Does this ‘knowledge gap’ make fiduciary advice much more important for ordinary investors?” While 85% overall believe that this knowledge gap makes fiduciary advice much more important for ordinary investors, the breakout by registration shows more variation. A much higher percentage, 93.1%, of RIA/IARs than dual registrants, 76.9%, or registered reps, 72.4%, believe that *the knowledge gap makes fiduciary advice much more important for ordinary investors*. However, it is the clear majority belief across all types of advisors.

28. Does this 'knowledge gap' make fiduciary advice much more important for ordinary investors?				
	How are you currently registered?			
	RIA/IAR	Registered rep	Dually registered	Response Totals
Yes	93.1% (162)	72.4% (21)	76.9% (90)	85.3% (273)
No	6.9% (12)	27.6% (8)	23.1% (27)	14.7% (47)

Enforcing the Fiduciary Standard

“Which regulator should enforce the fiduciary standard if extended to brokers who provide advice to investors?” Overall, 42% believe the SEC should enforce the fiduciary standard, while 33% believe it should be FINRA, and 25% say a separate SRO. Here, participants are loyal to the regulator they know: 55% of RIA/IARs select the SEC, and 61% of registered reps and 49% of dual registrants select FINRA.

29. Which regulator should enforce the fiduciary standard if extended to brokers who provide advice to investors?				
	How are you currently registered?			
	RIA/IAR	Registered rep	Dually registered	Response Totals
The SEC	55.2% (90)	19.2% (5)	26.2% (28)	41.6% (123)
FINRA	18.4% (30)	61.5% (16)	48.6% (52)	33.1% (98)
A separate SRO entity for advisors regulated under the fiduciary standard	26.4% (43)	19.2% (5)	25.2% (27)	25.3% (75)
Other (please provide details here):	35 replies	2 replies	17 replies	54

Differences: Suitability and Fiduciary

The survey asks participants, “**How would you describe the differences between the suitability standard and the fiduciary standard?**” Answers of the 228 participants who took the time to reply to this question run the gamut from very intelligent to cynical or even angry. Here are a few of the more accurate descriptions:

A fiduciary has an affirmative, ongoing obligation to place the client's interest ahead of its own. The suitability standard imposes a negative, time-of-transaction obligation to avoid knowingly recommending unsuitable investments.

The suitability standard prohibits the sale of an unsuitable security. That, in essence, means that the burden of proof is on the investor and anything that is not blatantly unsuitable is acceptable. The fiduciary standard requires that the best effort of the adviser must have been exercised to recommend the most advantageous investment(s). The burden of proof is on the adviser and anything other than the best discoverable recommendations are unacceptable.

Suitability says, "Here's a shoe that fits." Fiduciary says, "Here's that waterproof hiking boot you need."

Suitability means it could be appropriate for the client to own. Fiduciary means it is appropriate.

Suitability loyalty: to the sale. Getting close enough on recommendations so as to not be viewed as egregious. Fiduciary standard loyalty: to the client, putting their financial interests first.

The suitability standard means they must recommend a product that is suitable for the clients given their situation. There is no obligation to disclose fees or conflicts of interest to client. After the sale there is no further obligation to the client. A fiduciary must always put the interests of the client first and always disclose conflicts of interest. The broker's duty is to the firm. The advisor's duty is to the client.

An Even Tougher Fiduciary Standard: ERISA

Survey findings in this area are tremendously interesting: the ERISA fiduciary standard, with its provision that “plan fiduciaries...act prudently and solely in the interest of plan participants and beneficiaries,” is even more stringent than the Investment Advisers Act of 1940 fiduciary standard.

Yet, when we asked, “*Do you agree in concept with the Labor Department's plan to propose a rule that would redefine "fiduciary" and expand the number of advisors who are considered fiduciaries under ERISA?*” a majority, including registered reps and dual registrants, agrees in concept with the rule, which would require them to act as fiduciaries. Overall, 70% agree. While 76% of RIA/IARs concur, 64% of dual registrants and 56% of registered reps also agree.

31. Do you agree in concept with the Labor Department's plan to propose a rule that would redefine "fiduciary" and expand the number of advisors who are considered fiduciaries under ERISA?					
		How are you currently registered?			
		RIAMAR	Registered rep	Dually registered	Response Totals
Yes	76.2% (125)	55.6% (15)	64.3% (74)	69.9% (214)	
No	23.8% (39)	44.4% (12)	35.7% (41)	30.1% (92)	

In addition, 68% of all survey participants agree that *the same fiduciary standard that applies to 401(k) plans should also apply to advice on IRA accounts*. Here, 80% of RIA/IARs, 57% of registered reps and 54% of dual registrants agree.

32. Should the same fiduciary standard that applies to 401(k) plans also apply to advice on IRA accounts?					
		How are you currently registered?			
		RIA/IAR	Registered rep	Dually registered	Response Totals
Yes	79.9% (135)	56.7% (17)	54.3% (63)	68.3% (215)	
No	20.1% (34)	43.3% (13)	45.7% (53)	31.7% (100)	

Distributions From 401(k) and IRA Accounts

There may be no area of advising where there is greater vulnerability for individual investors—and need for advice that is fiduciary—than distributions from retirement accounts. The survey asked, “*Should the fiduciary standard apply to advice to investors on distributions from 401(k) or IRA accounts?*”

Overall, 79% agree that the fiduciary standard should apply distributions from 401(k) and IRA accounts, including 88% of RIA/IARs, 70% of dual registrants and 60% of registered reps.

33. Should the fiduciary standard apply to advice to investors on distributions from 401(k) or IRA accounts?					
		How are you currently registered?			
		RIA/IAR	Registered rep	Dually registered	Response Totals
Yes		88.2% (150)	60.0% (18)	69.6% (80)	78.7% (248)
No		11.8% (20)	40.0% (12)	30.4% (35)	21.3% (67)

The deadline looms for the new *ERISA 408(b)(2) disclosures* to retirement plan fiduciaries of the direct and indirect compensation paid to the plan’s covered service providers. Most participants, 72%, say they are prepared to meet the deadline.

25. Are you sufficiently prepared to provide 408(b)(2) compliant disclosures by the July 1, 2012 deadline?					
		How are you currently registered?			
		RIA/IAR	Registered rep	Dually registered	Response Totals
Yes		71.1% (123)	50.0% (15)	77.8% (91)	71.6% (229)
No		8.1% (14)	26.7% (8)	7.7% (9)	9.7% (31)
N/A		20.8% (36)	23.3% (7)	14.5% (17)	18.8% (60)

Separating Sales From Advice: Can Sales and, Separately, Fiduciary Advice, Coexist?

There was opportunity in this survey to gauge the field’s view on whether the fiduciary standard and suitability can coexist, separately.

A majority, 63%, says there is room for suitability to apply to sales only (investment information only, no personalized advice, and with all investor costs disclosed) and for the fiduciary standard to apply to advice and/or money management.

34. Is there room in financial services for the suitability standard to apply to sales only (investment information only, no personalized advice, all costs disclosed) and the fiduciary standard to apply to advice and/or money management?					
		How are you currently registered?			
		RIA/IAR	Registered rep	Dually registered	Response Totals
Yes		64.0% (110)	56.0% (14)	62.2% (69)	62.7% (193)
No		36.0% (62)	44.0% (11)	37.8% (42)	37.3% (115)

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Differentiating Advisor Roles

If the fiduciary standard for advice and money management, and separately, the suitability standard for sales only, could coexist, how would investors be able to clearly differentiate between the two and choose which they prefer? Participants were given three choices for yes or no answers. Overall:

- Disclosure – 85% say yes.
- Separate firms with clearly differentiated purposes – 64% say yes.
- Titles – 59% say yes.

Breakout by Registration Type

35. Which of the following ways are best to clearly differentiate fiduciary versus non fiduciary roles to investors?				
		How are you currently registered?		
		RIA/MAR	Registered rep	Dually registered
Titles	Yes	60.1% (98)	67.9% (19)	55.0% (61)
	No	39.9% (65)	32.1% (9)	45.0% (50)
		163	28	111
Disclosure	Yes	81.2% (134)	89.7% (26)	90.5% (105)
	No	18.8% (31)	10.3% (3)	9.5% (11)
		165	29	116
Separate firms with clearly differentiated purposes	Yes	83.3% (135)	36.0% (9)	42.9% (48)
	No	16.7% (27)	64.0% (16)	57.1% (64)
		162	25	112
Other solutions or additional comments about your answers:		34 replies	2 replies	15 replies

Conclusion

While it may not be evident from executives in financial services, there is an argument to be made that in the field, advisors, brokers and dual registrants who practice with clients every day are clearly listening to those clients, and thinking about the regulatory questions at hand in thoughtful ways. Many of the most seasoned advisors are making their own choices and moving to the fiduciary standard whether they are supported by their firm or not.

As clients become aware of differences between the fiduciary standard and the suitability standard, the types of firms and differences in advisors, they are making their own choices—and so are the individuals who advise them.

About fi360

Fi360 offers a comprehensive approach to investment fiduciary education, practice management and support that has established them as the go-to source for investment fiduciary insights. With substantiated Practices as the foundation, fi360 offers world-class fiduciary Training/Education, Tools and Resources that are essential for fiduciaries and those who provide services to fiduciaries to effectively and successfully manage their roles and responsibilities. Fi360 assists those who rely on their fiduciary education programs, professional AIF® and AIFA® designations, Web-based analytical and reporting software and resources to achieve success. For more information about fi360, please visit www.fi360.com or Twitter: @fiduciary360.

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FiduciaryPath offers accredited fiduciary consulting to investment stewards – investment committees, retirement plan fiduciaries, foundations, endowments and family offices; investment advisers, and investment managers, to ensure that they are aware of their fiduciary responsibilities and that their investment process is managed to an appropriate fiduciary standard of care. For more information about FiduciaryPath, please contact KMcBride@FiduciaryPath.com



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