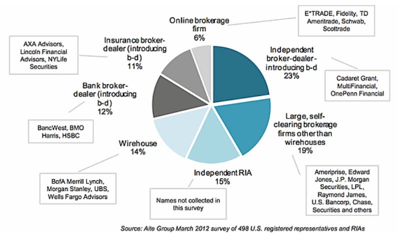
Planners fortify their position in favor of fiduciary standard

By Editor Test *Wed, Jul 10, 2013*

A new volley is fired by the FPA, the CFP Board and NAPFA in the ongoing battle to influence the SEC as it mulls a new fiduciary standard for people who provide investment advice to retail investors.



A fiduciary standard for advisors won't limit access to advice for "mass market" clients, according to a study sponsored by the Financial Planning Coalition, conducted by the Aite Group and cited in a July 5 letter from the FPC to the Securities and Exchange Commission (SEC).

The FPC is comprised of the Certified Financial Planner Board of Standards, the Financial Planning Association (FPA) and the National Association of Personal Financial Advisors (NAPFA), which together have about 75,000 members. Its recent letter responded to the SEC's request for information (RFI) as it mulls a new standard of conduct for registered representatives.

The battle is largely over the conflict of interest inherent in commissions. Fee-based advisors often don't sell products or take commissions, receiving instead a percentage of the client assets they manage. Many registered reps are beholden to third parties, such as broker-dealers or product manufacturers, who pay them commissions to sell specific products. (Some intermediaries use both models.)

A strict fiduciary standard, one that relied on more than a mere disclosure of the intermediary's relationships with the third parties and the conflict of interest it implies, could delegitimize the business model of that second group. It could interrupt distribution relationships for product manufacturers and deprive many reps of their main revenue source. Planners are much less likely to be hurt.

FPC cited the Aite Group's finding that "broker-dealers working under a client-first standard experience greater success compared to those operating under a suitability standard *and* without a significant increase in their costs."

"The standard contemplated in the RFI is little more than the existing broker-dealer suitability standard supplemented by some conflict of interest disclosures" and the current assumptions made by the SEC would "significantly weaken the fiduciary standard for SEC-registered investment advisers while adding few meaningful new protections for retail customers," the FPC letter said.

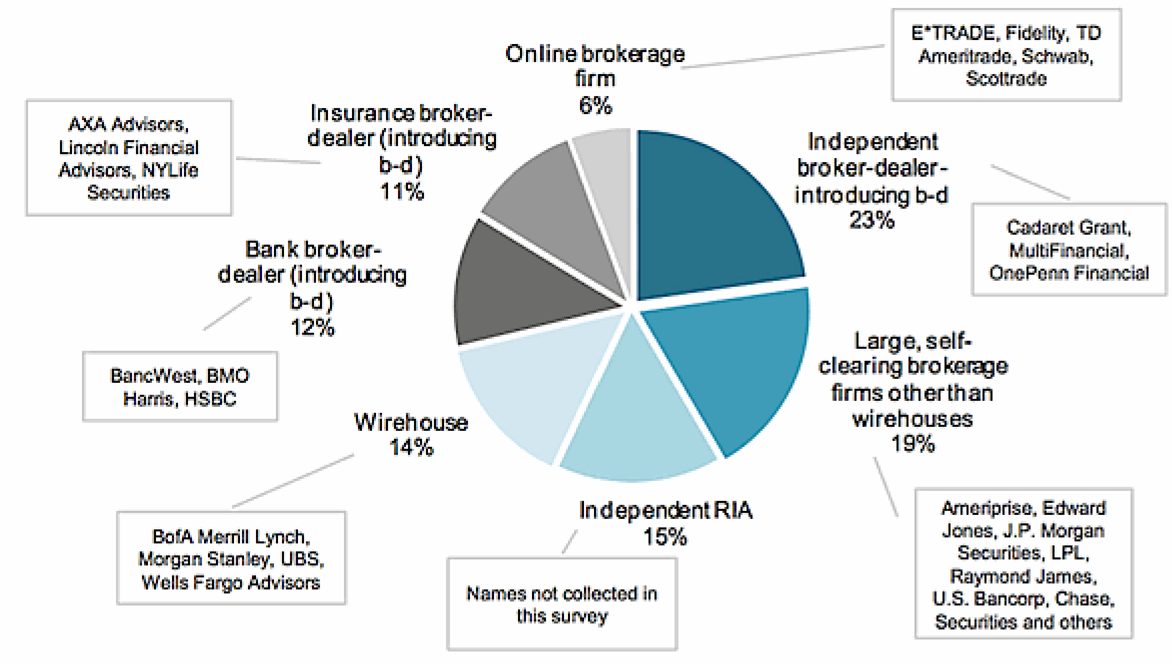
The FPC letter also said:

- The RFI's focus on enhanced disclosure suggests that such disclosure is sufficient for fiduciary standard. While disclosure of conflicts of interests is a beneficial and important step, disclosure alone is not sufficient to discharge an adviser's fiduciary duty.
- The Coalition letter identifies specific issues with the RFI's assumptions and proposes an alternative

set of assumptions for a uniform fiduciary standard consistent with Dodd-Frank and the Advisers Act.

- The alternative standards of conduct and approaches discussed in the RFI are inconsistent with Section 913(g) of the Dodd-Frank Act.
- The SEC should address harmonization of investment adviser/broker-dealer rules *after* it adopts a uniform fiduciary standard of care: the two issues are conceptually distinct and should not be linked.

Registered Reps Landscape (as surveyed by the Aite Group for the Financial Planning Coalition)



Source: Aite Group March 2012 survey of 498 U.S. registered representatives and RIAs