



DOL New Rule – Facts vs. Fiction

By Jon Davis, FSA

With the Department of Labor's new Fiduciary Rule looming to take effect next year, I think it is important to communicate what the facts are and point out some misinformation that is being circulated. Here are the 2 biggest issues I think you need to be aware of.

FACT: An agent does **not** have to be securities licensed to write Fixed Indexed Annuities.

Producers have been told they need a series 6 or 65 to sell Fixed Indexed Annuities (FIAs) next year. This is not true. You have to be securities licensed to sell securities. An FIA is **not** a security. That fact was reinforced as a result of the 151a fight a few years ago. There is **no** government mandate that requires a securities license to sell an FIA.

FICTION: Some groups or individuals already have the DOL rule all figured out and are ready to go.

The fact is insurance carriers are still trying to figure out what the rules are and how they are going to respond. Despite these new DOL rules, FIAs are insurance products sold and backed by insurance companies, of which you have to be licensed with to sell their products. We've spoken with executives at all of our major carriers and they've told us that nothing is finalized. Until they have laid out the rules on products, compensation, who can sign the Best Interest Contract (BIC), etc., nothing else can be finalized. Everyone was caught by surprise when FIAs were included in the BIC.

What We are Doing to Prepare

We are talking to carriers and several groups who are building solutions. We believe it is too early to pick the best solution to use because none of them are ready. We are going to wait until it is clear what the options are and then pick the best solutions for our agents, which may be more than one!

What You Can Do as an Agent to Prepare

Regardless of how this all turns out, the one thing you can do to strengthen your practice is to review and improve your client documentation procedures. Review your filing system, fact finders, notes, and other materials you use in the sales process. At Davis Life & Annuity, we have advocated doing so for many years. Maintaining clear and concise records puts you in the best position to show how you meet your client's goals. At the end of the day, this whole rule change is about doing what is best for your client. From that standpoint, we applaud the sentiment. We disagree with how it has been implemented, but we have to adapt to reality.

If you are currently registered with a Broker/Dealer or RIA firm, keep abreast on what their stance is. If you have concerns in regards to their direction and your FIA business, let us know and we will help you find new options as the dust settles on this whole issue.

Do not make any major changes to your practice yet. This rule has us all concerned about our business. Given there are still so many open issues, keep focused on what you are doing right now. Our job is to keep you informed and present solutions when they are ready after we have vetted them for you.

There are also several lawsuits that are currently active, and there is still a chance the proposed rule could be changed or delayed. Industry expert Jack Marion recently published a very informative piece regarding the litigation in the September, 2016 edition of *Index Compendium*. We encourage all of our producers to read his cover article "Waiting," to gain a deeper understanding of the judicial process and how the industry is likely to respond. We are making plans as if the rule will be implemented as it stands, although we hope for a favorable outcome from the suits.

We have been in business for 36 years because we have always adapted to change and helped our advisers do the same. This is another challenge that we will meet and beat and be better for it! If you have any questions or concerns over the impact of the DOL rule on your business, please call us here at Davis Life & Annuity and we promise that we will give you the facts!

With kind regards,

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