

How the SEC's Reg BI Will Affect Retirement Plan Sponsors and Participants, Plan Sponsor, ft. Nancy Hendrickson

On January 6, 2020, Nancy Hendrickson, partner in KD Chicago and co-chair of the financial services practice group, was quoted in an article written by Rebecca Moore published in PlanSponsor Compliance.

While participants will be affected more than sponsors, sources say it is a best practice for sponsors to know when and how this rule applies and how providers are engaging with participants.

Nancy Hendrickson, partner and co-chair of the financial services practice group at Kaufman Dolowich & Voluck in Chicago, says the Reg BI's use of the term "retail investors" includes retirement plans and participants. She notes that a lot of advisory firms and B/Ds have already done a lot of work in this area in anticipation of the DOL rule. As a result, most brokers providing services (not fiduciary) to plan sponsors and the plans themselves have revised or updated practices specifically regarding fees and fee disclosure.

Hendrickson adds that changes to service contracts already took place, and as a result, a lot of B/Ds started working in a fiduciary capacity. "The Reg BI will make it easier for those who have held out and those just starting to take fiduciary responsibility to compete. Sponsor will be more open to working with B/Ds as opposed to strictly investment advisers," she says.

Hendrickson adds, "Plan sponsors will see more competition among B/Ds and advisers and will be seeing a lot more choices offered. Plan sponsors will need to understand their choices, do due diligence and document reasons for deciding which investment to offer."

The plan participant experience

"Since the rule depends heavily on disclosure, retirement plan participants will need financial literacy they don't currently have—they will have to learn on their own. But firms can compete better if they provide education," Hendrickson says. "Before, advisers and B/Ds felt constrained by a line they couldn't cross between education and advice. Now that everyone knows they will have to act in the customer's best interest, hopefully it will result in better education."

Still, Hendrickson says, it will remain the case that the plan sponsor will not be involved at the point of a participant's rollover.

"Participants will be left to their own devices when navigating through everything."