

THE
ROSENBAUM
LAW FIRM P.C.

ADVISORS ADVANTAGE
A Publication for Retirement Plan Professionals

How Retirement Plan Providers Can Deal With The Fiduciary Rule Change.

Adapt to this change.



At its prime, Blockbuster Video had 9,000 stores and was actually bought by Viacom in 1994 for \$8.4 billion. Then some things called DVDs, Netflix, Redbox, and digital delivery caused Blockbuster to go out of business. Blockbuster couldn't change with the changing times. Change can be an opportunity as long as it's taken advantage of. As a retirement plan provider, the Department of Labor's (DOL's) new fiduciary rule is an opportunity. Take advantage of the new rule or the rule will take advantage of your business. This article is about how retirement

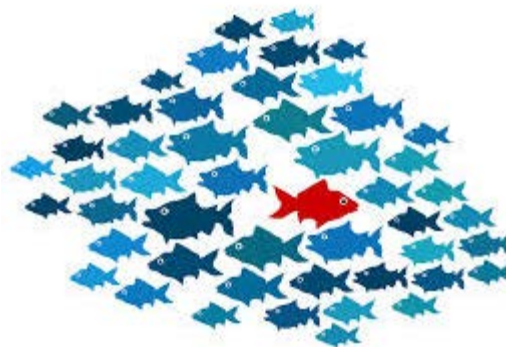
plan providers can take advantage of the new fiduciary rule.

To read the article, please click [here](#).

You're Always Against The Tide.

It is what it is.

I always get the call from my third party administrator (TPA) and financial advisory clients concerning the same topic. The topic is how it's still difficult to get across with potential plan sponsor clients on the urgency to monitor their retirement plans and hire these excellent providers. Despite fee disclosure regulation and the increased litigation against plan sponsors, you're always going to be going against the tide by contacting plan sponsors. Plan sponsors are active businesses who either don't have the time and/or interest to work on their retirement plans.



There will always be a business for doctors because people get sick and they want to get treated to get better. The problem with being a retirement plan provider is that you're trying to sell services to plan sponsors who don't know they need your help and don't understand that there

maybe something going wrong with their retirement plan.

It's hard to articulate to plan sponsors that their plan's inefficiencies may increase their potential liability and that the current provider may not be doing the right thing in providing services. Plan sponsors don't understand that they are always on the hook for liability and may pay a heavy price for their plan providers that are incompetent.

So no matter the positive changes with retirement plan in terms of disclosure and litigation that is spurring the end of some unsavory plan practices, it's always going against the tide in getting plan sponsors to hire you. It's not you; it's the plan sponsor.

Don't get stuck in 1986.

It's bad body language.



I was a volunteer and officer for an organization where I stated that the leadership (not including me) was stuck in 1986.

What it meant was that this leadership couldn't adjust to the current age when it came to recruiting new members and raising contributions. What worked well 30 years ago doesn't mean it will work today.

I worked for a law firm that acted as if time stood still. I tried to use social media to generate discussions that would help me net clients, but the Managing Attorney didn't get it even though her husband was doing the very same thing for his own law practice.

The point here is that the retirement plan business continues to evolve. Retirement plan rules change; the attitudes of plan sponsors change. The opportunity to get new clients changes. You need to be open to what's new out there and determine what will work and what still works.

By the way, the best thing to happen in 1986 was the New York Mets. Thank you.

MEPs: Primed for a comeback?

LL Cool J would say "don't call it a comeback".

My mother would always tell me that fashion is cyclical and that what was popular once will fall out of disfavor and will become popular again. I was a child in the late 1970s and 35+ years later, ruffled dress shirts, velvet tuxedos, and leisure suits have not come back into style and likely never will.



One thing that was popular a few years back is primed for a comeback and that are multiple employer plans (MEPs). A MEP is a plan where there is one plan sponsor and many employers who have decided to adopt the plan. It essentially becomes a cooperative as small employers would join a MEP to achieve cost savings since daily 401(k) administration pricing favors larger plans. A MEP was considered one plan for Form 5500 purposes and many providers were promoting it because it provided liability protection and cost savings to small employers. MEPs were popular until 2012 when the Department of Labor (DOL) in its lack of wisdom decreed in an advisory opinion that open MEPs (where there was no relationship or commonality between the adopting employers) were not considered a single plan for Form 5500 purposes. That meant in a situation where there was no relationship between the parties, a Form 5500 was required for each adopting employer. That killed one of the great advantages of these open MEPs.

So MEPs are still around, whether they use the old definition of closed or open or not. Thanks to the fee disclosure regulation and other concerns of retirement plan coverage, individual states have explored starting MEPs for small employers in their state. The state of Washington actually has gone through the trouble of starting a plan. The DOL seems to be very receptive of these type of MEPs especially after President Obama threw his support for MEPs.

What really has held back MEPs is this advisory opinion from 2012 that was actually issued to one that belonged to a financial advisory firm. I always thought that MEP seeking an advisory opinion from the DOL was a bad idea because to quote political activist Morton Blackwell: "never give a bureaucrat a chance to say no." It also doesn't help that the DOL has not issued any applicable guidance that give or subtract weight to an advisory opinion that only holds for that specific client (while letting all of us know their thinking).

With states getting in the MEP action, it's time for the DOL that would allow states and other interested parties in starting a MEP that will lower costs for small employers and help them limit their exposure as fiduciaries.

Always be engaged.

Always be alert.



Stony Brook University

When I was at Stony Brook for college, there were many student organizations that would have tables in the Student Union to attract new members. So many

tables would have their members reading or doing something that distracted them from being engaged from actually attracting new members.

As a retirement plan provider, you need to be engaged and responsive with potential clients and current clients. A plan provider who has their head in the clouds is going to fail to attract new clients and fails to keep current ones. You can't be afford to be non-responsiveness to the interest of potential clients and the needs of current clients.

Personally, I have never lost clients because of cost or incompetence. I have lost clients because clients no longer need my services or because I failed to be responsiveness on occasion. We all make mistakes including myself, the lesson is to learn from them.

Looking for plan provider alliances and advertisers.

I have a couple of things up my sleeves.


A few weeks ago, you received an email regarding the plethora of legal services I offer retirement plan providers and their clients. If you didn't get a chance to see the email, just click [here](#).

In addition to my legal services and my 3(16) services through my affiliated company Austin 3(16) Fiduciary Limited, I also offer multiple employer plan solutions for third party administrators and financial advisors who don't want to go through the headache of setting one up.

Finally, if you are a retirement plan provider such as a mutual fund company, trust company, or other large plan provider who wants to get the word out to plan sponsors and other plan providers, I am working on something I call Project X. More details to follow. Feel free in contacting [me](#) if you want to know more.



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The Rosenbaum Law Firm Advisors Advantage, July 2016 Vol. 7 No. 7

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