

## Table of Contents

Chapter 1: Fiduciary Rule Invalidated .....	1
Impartial Conduct Standards of Conduct.....	2
Best Interest Standard .....	2
Reasonable Compensation.....	4
Misleading Statements.....	4
Fiduciary Definition and “Investment Advice” .....	5
Five Factor Test.....	5
Actions to Take by Financial Advisors .....	7
Chapter 2: The Fiduciaries .....	11
Background .....	11
Named Fiduciaries in Plan Document .....	11
Named Fiduciary .....	11
Administrator.....	12
Trustee .....	12
Appointed Fiduciaries.....	12
The Section 3(16) Fiduciary.....	12
The Section 3(38) Investment Manager .....	13
The Section 3(21) Fiduciary.....	14
Functional Fiduciaries.....	15
Fiduciaries Who Manage the Plan or its Assets .....	15
Fiduciaries with Discretionary Administrative Authority or Responsibility.....	16
Fiduciary “Investment Advice” (1974-2016) .....	17
Chapter 3: SEC Best Interest Guidance .....	21
Background .....	21
Disclosure Obligation .....	24
Care Obligation.....	24
Reasonably Designed Policies and Procedures.....	24
Identifying Material Conflicts of Interest.....	25
Other Regulatory Activities – The States.....	27
Chapter 4: Summary of SEC Proposed Comments.....	37
Chapter 5: Conclusions and Predictions .....	39
Appendix A: Proposed New Rule from the Securities and Exchange Commission – 17 CFR Part 240.....	41
Appendix B: SEC Proposed Rule for Comment – 17 CFR Part 275.....	151
Appendix C: Field Assistance Bulletin No. 2018-02, United States Department of Labor.....	163