



BITS AND PIECES

TIPS AND IDEAS ABOUT THE FIDUCIARY RULE

November 22, 2016

BICE Compensation Limits are not Benchmarks

The Best Interest Contract Exemption requires that advisor compensation from every Retirement Investor be less than a reasonable level. This is not a benchmark or goal to be achieved. It is quite the opposite, it is a cap on prices. It is a compensation limit.

Unfortunately, under BICE, the compensation limits apply to both new and existing (grandfathered) business.

The compensation limit only lowers prices. The limits become especially dangerous if they are mistaken as means to improve advisor profitability or to reward productivity.

Compensation limits required by BICE will ultimately erode profitability and punish productivity unless they are carefully managed. There are two steps advisors must take to avoid the damage compensation limits can cause. First is to avoid the trap of using market averages that will decline over time. The second is to use variables that advisors can control to determine what limits are.

There is no requirement to keep compensation below any given average and by doing so, one half of the industry compensation is always in violation of the regulation. Lowering compensation also lowers the average, leading to a never-ending downward spiral of prices. This danger must be recognized and avoided.

The alternative is to use controllable factors that increase over time and have the effect of keeping up with inflation. While not a perfect answer to compensation limits, the Gartenberg Standard offers a better answer than the downward spiral of averages. The Gartenberg Standard has been affirmed by the Supreme Court and enables the use of up to five factors to establish compensation limits. The factors are the cost and profit, allocated to clients based on the services rendered, benefits derived, advisor performance and economies of scale. These factors can be managed to preserve the profitability and reward the productivity of an advisor's business.

These factors have been incorporated in DALBAR's [Compensation Compliance Test](#). See demo and further information at <http://www.Compensation.DALBAR.com>.