



## WHY TRUMP WILL NOT CANCEL THE FIDUCIARY RULE

November 15, 2016

Donald Trump has committed to repeal regulations that strangle economic growth and in particular those that impede small businesses. While he has not promised to repeal the DoL Fiduciary Rule, on the surface it appears to qualify as an impediment to the small businesses of hundreds of thousands of advisors who earn a living from commissions and other forms of compensation that the Rule limits.

On the other hand, the Rule protects the millions of small businesses and individuals who rely on advisors to make prudent recommendations. This protection is not necessary for the vast majority of advisors that today put their clients' interest first, but is necessary for the small minority that prey on their clients. The Rule is intended to prevent these outcasts from taking advantage of the ill-informed and unsuspecting, preventing them from directing clients into risky propositions by misleading them and then collecting outrageous fees.

The argument is simple. Advisors who already put their clients' interest first should have no difficulty putting their intentions in writing and promising to charge reasonable fees and to tell no lies.

The reality is that these seemingly simple requirements require a major upheaval in existing compensation systems which were designed to reward advisors for selling products and not for acting in their clients' best interest.

The result is that advisors must undertake economic surgery to remain in business!

The problem for President Trump is that the advisors most affected by the Rule are parts of large financial institutions and not small businesses at all. In short, repealing the Fiduciary Rule will be perceived by the media and the public as going back on his word to "clean out the swamp" and instead siding with one of the most powerful and vilified special interest groups, "Wall Street".

Trump's opponents would have a field day with headlines such as "Trump cancels best interest investor protection", "Trump reopens door to Wall Street abuse", "Trump lets advisors take advantage of investors", etc.

In addition to the threat of a backlash, the process of repealing the Rule is risky and difficult.

The first risk is that repeal of the rule would have to become a top priority for the first 100 days. This would be in the face of the fact that the financial community has already lost what is widely considered its best argument in court and is therefore likely to lose others. On the other hand there is the argument that there are millions of small businesses and individuals that the Rule would protect.

The second risk is that any action to repeal before the applicability date may be illegal or even unconstitutional. This would almost certainly result in a high profile court case. Repeal after applicability date would be ineffectual since the Rule would already be implemented and rollback would be an even more arduous task.

The third risk is creating a political firestorm at a time when support and cooperation of both parties are needed to enact Trump's own agenda.

It would appear highly unlikely that a Trump administration would take these risks, even if the outcome was a desirable one.