



## BITS AND PIECES

### TIPS AND IDEAS ABOUT THE FIDUCIARY RULE

October 24, 2016

#### ***Plain and Simple: Robos Need Exemptions!***

Under ERISA and parallel IRS regulations, Robos serving clients with ERISA plans (401(k)s) and/or IRAs are operating outside the law, unless they comply with an exemption.

ERISA 3(21) (and parallel IRS regulations) says: If you give advice you are a fiduciary. Robos give advice.

ERISA 3(38) says: If you manage assets you are a fiduciary. Robos manage assets.

Therefore Robos are fiduciaries.

ERISA 406 says: Fiduciaries cannot be paid without an exemption. Robos get paid.

Therefore Robos need an exemption.

Robos can operate legally by complying with one of the following:

- ERISA 408(b)(2)... Necessary and reasonable services

- SunAmerica... Payment from a 408(b)(2) service providers

- ERISA 408(g)... Fee Leveling or Computer Models

- BICE... Enforceable contract and Impartial Conduct Standards

**Outside of these is outside of the law.**