

EC's Walter Calls for Uniform Fiduciary Standard for Investment Industry



BY: [LORIE KONISH](#)

ON WALL STREET MONDAY, MAY 20, 2013

SEC Commissioner Elisse Walter backed the implementation of a uniform fiduciary standard for all investment professionals on Wednesday.

Walter, speaking at the Financial Industry Regulatory Authority's annual conference on Monday, called a fiduciary standard a **"gold standard"** because it would require the same level of service from both brokers and investment advisors.

Today, investment advisors are held to a fiduciary standard which requires them to make investment recommendations based on their clients' best interests. It's a stricter standard than that imposed on broker-dealers, who instead must guarantee investments are suitable or consistent with their clients' interests. That means they can choose to recommend higher-priced investments.

Having a [uniform standard for both investment advisors and broker-dealers](#) would create a more level playing field for investors, who often aren't aware of the different responsibilities each has to clients, Walter said.

"The more important point is [that] depending on who I hire, I get different levels of care and different rules applicable and that, to me, has never made any sense," said Walter.

As the debate on fiduciary standards roils the investment industry, the SEC is taking a more investigative approach. The Commission [recently opened a request for comments](#), particularly data, to solicit more information regarding any advantages to operating as either a broker-dealer or an advisor. Back when Walter worked at FINRA, she said, there were anecdotal stories of professionals who de-registered as brokers and became advisors because there were less burdens and costs. By obtaining concrete data from firms, the SEC is hoping that it can put the debate on any potential advantages to rest.

A uniform fiduciary standard will not likely happen while Walter is still commissioner, she said, a stint that may last only until the end of this year. Coming to an agreement on a fiduciary standard could take time as industry groups weigh in and the SEC grapples with other decisions tied to Dodd-Frank.

Another crucial issue that will not be considered during her term is the definition of "accredited investor," which aims to set a threshold for the level of sophistication an investor needs to participate in an investment. Currently, an [accredited investor has to have more than \\$1 million in net worth excluding primary residence](#). She called the definition "a perennial albatross for the Commission."

The SEC is currently limited by a statute from changing the definition of an accredited investor and the net-worth standard associated with the definition until the middle of next year. But active debate about that issue should start now, Walter said.

A new, better definition of an accredited investor would instead rely on how much of an individual's assets were invested, rather than the income and net worth standards used as a rubric today, Walter said. That definition, rather than net worth, would be far easier to measure, she said.

Another market ripe for improvement is fixed income, Walter said. While the equities markets are frequently examined, tweaked and refined, the fixed income market is mostly left alone. The result, she said, is less clarity for investors.

"If you're a retail investor, and you choose to sell a bond, you don't really have a price discovery mechanism to double check ... whether or not the price that you've gotten is fair," Walter said.

That problem can be solved with more pre-trade transparency, according to Walter, following the work the Commission has done to improve post-trade transparency. The resolution of that issue might not have to come from the regulatory side, she said, but instead from the industry working together on a voluntary basis to fix the issue.

Throughout the session, Walter fielded questions from the audience, including one in which she was asked why more top-level executives aren't punished for investment industry abuses. She said it all boiled down to evidence – or lack thereof.

"When you look at facts about something that went wrong in a given firm, it is usually easier to trace those at the mid or lower level than it is to trace it all the way to the top," Walter said. "But where the evidence is there, we pursue it wherever it goes and there certainly isn't any reluctance to do it."

Employees at investment firms can do their part by reporting any abuses to the Commission as a whistleblower, Walter reminded the audience.

"If you have any evidence you'd like to give us, we'd really like to hear it," Walter said, drawing a few hearty laughs from the audience.