INSTITUTE FOR
THE FIDUCIARY STANDARD

BEST PRACTICES FOR FINANCIAL ADVISORS

A Professional Code of Conduct
Fiduciary Advisor Affirmation Program

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Remarks of Knut A. Rostad

Good morning. I am Knut Rostad, president of the Institute for the Fiduciary Standard.

Thank you for joining us this morning for the introduction of the Institute for the Fiduciary Standard's Best Practices Fiduciary Advisor Affirmation Program.

In the next few minutes I will outline Best Practices, what the program entails and why the Institute decided to offer this program.

I will then hand the mike to Brian Hamburger, CEO of MarketCounsel and counsel to the Institute's Best Practices Board. Jane Bryant Quinn will then speak on the Best Practices and their meaning / importance to investors. Luis Aguilar, former SEC Commissioner, will speak to the importance of Best Practices to the regulatory framework. Jim Lumberg of Envestnet will then address the Best Practices from the perspective of advisors. At this point we will open the floor to questions.

Why A 'Best Practices Fiduciary Advisor?'

The Best Practices Fiduciary Advisor Program fills a gap in federal regulatory compliance and advisor group codes of conduct. This gap has left too many investors receiving questionable product recommendations under the guise of fiduciary advice.

Best Practices are crafted for the world of 2016 where fiduciary principles and investors demand more from advisors. The world of 2016 is defined by the DOL Fiduciary Rule, new investor attitudes and new technology which is dramatically altering the delivery of services and advice. Today investors can have unprecedented convenience, choice and access to new resources, data and services. Competent and ethical advisors are more prominent and assessable every day. The 21^{st} century fiduciary advisor / client-centric paradigm has emerged.

<u>Bright picture -- with a dark cloud</u>. Investor distrust persists more than seven years after market lows. Yet, the advisory industry just doesn't seem to think it's a big deal. With certain exceptions. CFA Institute has – rather loudly – made investor distrust a call to arms. Advisor leaders Tom Nally, Ron Carson and Mark Tibergien have also publicly highlighted the issue, in different ways. Merrill Lynch's John Thiel has also done so. But these voices, however important, are the exception to the rule of silence.

<u>Today's investors' exude skepticism</u>. They demand better solutions in technology, resources, advice; and transparency, clarity and honesty. And, importantly, concrete actions. As Michael Maslansky, a financial language expert, says, "Words in the absence of deeds will fail."

<u>Best Practices are best defined by deeds.</u> They are concrete and crafted in plain language to be understandable and verifiable by ordinary investors. They are crafted to reflect what many respected advisors already do today.

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What Best Practices mean an advisor will (or will not) do

What will investors “take away” from Best Practices and understand a Best Practices advisor will – or will not – do? It’s straightforward; it’s verifiable.

1. Put into writing that fiduciary duties apply at all times – not just sometimes.
2. Give advice that’s *reasonable* – and explain the advice in writing if asked.
3. Put important agreements and disclosures in writing.
4. Provide estimates of total client fees and costs in writing at the start of the relationship and then afterwards on request.
5. Avoid conflicts – and if not possible disclose in writing, manage, and for important conflicts, get client consent to proceed with conflicted transactions.
6. Won’t push principal trades – trades where the advisor sells her own inventory.
7. Avoid compensation from client transactions – and, if not possible, show how the product recommendation serves a client’s best interest.
8. Avoid gifts and entertainment that are not minimal and occasional.
9. Have the appropriate base and ongoing education to render competent advice.
10. Use an investment policy statement or process and provide a sample if asked.
11. Make sure fees and expenses are reasonable.
12. Affirm in writing adherence to Best Practices and the Best Practices can be met.

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Why should advisors subscribe to the Best Practices Code

The Best Practices program offers advisors a unique opportunity to say to investors and regulators how the firm commits to a high code of professional conduct.

One, the 'Best Practices' professional code of conduct is more rigorous than other codes of conduct. The 'Best Practices Code' requires, for example, an advisor to put in writing that she acts as a fiduciary for all clients at all times, and also that she states her conflicts of interest and an explanation of how these conflicts are mitigated in writing. She also puts in writing a good faith estimate of clients' fees and costs. The bottom line is simple: she is required to do more to show investors she deserves their trust.

Two, the Best Practices Code compliance feature is more rigorous. The program requires that language expressing adherence to Best Practices be placed on the advisor's ADV Part II. Further, the specific requirements of the Best Practices Code must be placed on the advisor's website. This is in a public statement to investors and regulators. No other code of conduct, to our knowledge, is required to be made public in this way.

Three, the 'Best Practices Code' is written in plain language investors can understand. They can be understood – without legal counsel. Their brevity and clarity tell investors the advisor is committed to the straight talk that is essential to trust.

Four, 'Best Practices' are based on advisor deeds. Deeds investors believe are important to credibility and trust. Conduct speaks loudly. Integrity is associated with transparency just as suspicions are associated with secrecy. The Best Practices fiduciary advisor, without uttering a word, "speaks" loudly in simple actions. Such as putting agreements and disclosures and services and fees and expenses in plain language and clear writing.

Five, the Registry of Best Practices Fiduciary Advisors will be widely communicated. Advisors who subscribe to the Best Practices will be put on a registry. The Registry will be publicized to investors and media; advisers will be given a Registry affirmation testifying to their commitment.

Conclusion. Best Practices are crafted for 2016 where market forces and higher investor expectations require a higher standard. Best Practices Advisors subscribe to a high standard of "commonsense" deeds expressed in concise language and under the toughest compliance feature. These advisors will lead a renaissance in fiduciary care.