Whether dealing with retirement plans, endowments, foundations, or individual investors, advisors employ certain fiduciary best practices. Investments & Wealth Monitor asked two successful advisors about their fiduciary practices, as well as the potential implications of the proposed Department of Labor (DOL) fiduciary rule and any future U.S. Securities and Exchange Commission (SEC) fiduciary standards, on their businesses.

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I&WM: The concept of being a fiduciary is not new, and many advisors have functioned as fiduciaries for many years. In fact, Investments & Wealth Institute’s Code of Professional Responsibility discusses putting the client’s interest first.1 In light of the DOL fiduciary rule, and the anticipated SEC rule, have you changed the way that you deal with your clients?

Bossung: No, the DOL rule will not change the way I deal with my clients. Lowery Asset Consulting LLC is an SEC registered investment advisor that has always acted as a fiduciary for our clients. We endeavor to be fully transparent in all our dealings. We educate our clients as to the risks and the opportunities and all expenses involved with their investments. Our only compensation is the fees we charge and those are fully disclosed. As a member of the client’s investment/wealth management team we strive to provide the best possible results, reported net of fees, given their goals and unique situations.

Laible: As an independent registered investment advisor, we operate at the highest level of fiduciary care. At my firm, Landmark Wealth Management, the legal standard is the baseline. We have always acted on behalf of our clients’ best interest, avoided conflicts of interest, reported earnings net of all fees, and provided full disclosure in all areas. Our firm’s practices have exceeded the proposed regulations since our inception, so I do not anticipate we would change the way we deal with our clients. We have—and always want to be—completely aligned with our clients’ best interests. It’s part of our firm culture.

I&WM: Can you describe your practices and the client segments you are primarily focused on? What services do you provide your clients?

Bossung: Our firm works with both institutional and high-net-worth clients. Personally, I work with high-net-worth clients, endowment and foundation clients, and associations. Client asset sizes vary from roughly $3 million to $150 million in assets. Institutional consulting includes investment policy design, asset allocation, custodial and manager search and selection, and reporting net of all fees. For high-net-worth individuals, we provide the same services as institutional along with general financial planning including cash-flow analysis, retirement planning, and investment planning as well as coordinating tax and estate planning with their other advisors. All services are customized to the needs of the client and are fee-only.

Laible: We focus on high-net-worth individuals and large institutional clients. Typically, our clients have at least $1 million in investable assets and in many cases substantially more. We provide comprehensive wealth management, which includes investment management, tax planning, estate planning, retirement planning, cash-flow analysis, and general financial planning. By focusing on fewer clients with larger asset bases, we can devote more personalized attention and coordinated solutions. Again, this helps ensure we are acting in the client’s best interest. Rather than offering a one-size-fits-all approach we can provide unique,
tailored, and coordinated solutions that are optimal for the client.

**I&W**: Do you anticipate changing the manner in which you deal with clients and/or the clients you serve?

**Bossung**: I will not need to make changes in the way I deal with my clients. Our firm approaches all client interactions from the perspective of a fiduciary. Our process is transparent, all fees are disclosed, and returns are reported net of those fees. Since the DOL rule focuses primarily on ERISA-related matters, there will be one area that will require additional documentation for compliance in my practice. This relates to the new regulations requiring specific documentation when rolling over assets from a 401(k) plan to an individual retirement account (IRA). We already discuss potential investments and the differences in fees regarding investments in the 401(k) versus the IRA, but it is my understanding that an additional level of detail regarding plan expenses versus IRA expenses is required under the rules.

**Laible**: Since our firm has always adhered to the fiduciary standard, I do not anticipate a substantial change. We will continue to act in the best interest of our clients and provide full disclosure. In fact, we have practiced for many years subject to our own internal standard, called the “Leadership Standard.” You can think of this as a pyramid, with the suitability standard at the base, the fiduciary standard higher up in the middle of the pyramid, and the “Leadership Standard” at the peak of the pyramid. This “Leadership Standard” encompasses the suitability standard and the fiduciary standard, but it goes beyond that. It includes industry best practices such as net-of-fees performance reporting, tax-sensitive investing (i.e., not only net-of-fees, but net-of-taxes returns), proactive communication and reporting, meaningful rebalancing (not just annually but tactically during market downturns and rallies), promoting a best-practices firm culture, and so on.

**I&W**: One of main issues addressed in the DOL rule is disclosures of potential conflicts of interest. How do you disclose potential conflicts of interest to clients?

**Bossung**: The sole source of income for Lowery Asset Consulting, LLC is client fee-based revenue. We are fully transparent in all our dealings with clients. By continuing to maintain our independence from money management and custody we truly offer a transparent, conflict-free, open-architecture process. Additionally, we do not have a pay-to-play system for managers we use for clients. As a result, we feel there are no conflicts to disclose to clients. In the unlikely case that a conflict should arise, clients would be notified both verbally and in writing.

**Laible**: We do not receive any commissions, 12b-1 fees, soft dollars, kickbacks, free technology, etc. The only form of compensation we receive is our fee as a percentage of the assets we manage for our clients. Therefore, we do not have any conflicts of interest. If we ever did believe there was the potential for a conflict of interest or even a perceived conflict of interest, then we would verbally and in writing disclose this to our clients. On an annual basis, we also disclose any material changes to our business, including any potential conflicts of interest.

**I&W**: Do you see the fiduciary rule(s) as a threat or an opportunity for your practice? How do you think it will affect the overall financial services industry?

**Bossung**: I view the fiduciary rule as an opportunity. As a registered investment advisor, we act as fiduciaries to all our clients and we describe this as a benefit to prospective clients. Investors have tended to believe that brokers also had the same fiduciary obligations until this topic began to be addressed in the media. The new rules, and the press surrounding them, have drawn a line in the sand illustrating that there is a difference between a fiduciary and a commission-driven broker-dealer and there is much the large wirehouses are having to change to become compliant.

**Laible**: The new fiduciary regulation is unlikely to threaten our business, because we already have been practicing in a fiduciary capacity and everyone at my firm is comfortable with those parameters. However, it may change the competitive landscape in that many more advisors will now claim to be acting as fiduciaries and hold themselves out as practicing in the same capacity as conflict-free advisors. So, we will need to further educate our clients and prospects in this regard. For instance, my understanding is that taxable accounts are exempt from many of the new DOL fiduciary regulations, yet our firm acts as a fiduciary for all accounts—taxable, non-taxable, deferred, charitable, etc. In addition, I have seen some retirement account disclosures where fees and conflicts are buried in pages of legalese. My concern is that this new rule may give advisors who have conflicts, but provide a buried disclosure, some cover by saying they are a fiduciary. Avoiding conflicts of interest—both in substance and in perceptions—is still preferable to maintaining a conflict and disclosing it. I hope this new rule doesn’t water down the fiduciary status; if so, we may need to educate the public that not all fiduciaries are created equal. The investing public will need to be informed about these differences to better determine the type of advisor they are working with or want to work with.

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**ENDNOTE**