

Merrill Lynch eliminates commission IRA business in response to DOL fiduciary rule

The wirehouse is the first major firm to announce concrete plans for compliance with the Labor Department regulation

By **Greg Iacurci** | *October 6, 2016 - 5:51 pm EST*

In a signal of the radical change the brokerage industry is set to undergo because of the Labor Department's fiduciary rule, Merrill Lynch has announced it will no longer offer new, advised commission-based IRAs starting next year.

For the wirehouse's 14,000 advisers, new retail retirement accounts will exist in a fee-based environment as of April 10, 2017, the implementation date of the Department of Labor regulation.

The move represents a massive shift for the brokerage industry, and serves as a bellwether for how other broker-dealers — who've largely kept quiet about their response to the rule — are likely to react in coming months.

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Analysts and industry executives have said moving to an advisory rather than brokerage environment [would help broker-dealers avoid](#) what they see as some of the more onerous provisions of the regulation.

“We have determined that for most of our Merrill Lynch clients, the best way for us to deliver retirement-related investment advice that meets the fiduciary standard is through our Investment Advisory Program,” Merrill Lynch spokeswoman Susan McCabe said.

Merrill's current IRA brokerage clients will have the option to transition onto Merrill One, the firm's investment advisory platform, or onto Merrill Edge, where clients can use the firm's self-directed brokerage platform or its robo advisory service.

Legacy retirement assets, or those in a Merrill Lynch IRA brokerage account before April 10, can remain in that account, and will only receive recommendations to hold or sell after that date. However, clients won't be able to add to legacy assets or receive advice about new purchases in IRA brokerage accounts, Ms. McCabe said.

(More: [The most up-to-date information on the DOL fiduciary rule](#))

The firm seems to be addressing one criticism of the rule — that buy-and-hold investors can ultimately achieve lower costs through a brokerage account — by offering price discounts to clients when transitioning from the brokerage to advisory platform.

While Ms. McCabe didn't offer specifics on the level of discounts or criteria to receive them, she said the move is meant to achieve equity in cost between account types.

'WAITING TO SEE'

“Merrill is one of the first large firms coming out with a statement on what they intend to do about the DOL,” according to Denise Valentine, a senior analyst at Aite Group. “It's big news because everyone is kind of hanging out there waiting to see what others will say.”

Only [a handful of firms, such as Edward Jones and State Farm](#), have indicated any concrete compliance plans.

In moving to fee-based IRA accounts, Merrill is actively avoiding a provision of the rule known as the best-interest contract exemption (BICE), an exemption of the rule which would allow brokers to continue selling products under commission if they were to jump through additional compliance hoops.

One of those provisions is the signing of a contract saying an investment recommendation is in a client's best interest, but which gives clients the right to bring class-action lawsuits against a financial institution.

Merrill will not use the BICE to service or support ongoing IRA brokerage activity. The firm will use the BICE for recommendations for initial enrollment in the firm's Investment Advisory Platform from existing brokerage accounts, and for rollovers from 401(k) plans, Ms. McCabe said.

Because Merrill will be operating in an advisory environment, rollovers from 401(k) plans to a fee-based IRA wouldn't require a contract – rather, the firm would be able to take advantage of what the DOL calls [a “streamlined” BICE for level-fee fiduciaries](#). That would allow Merrill to sidestep what many see as the most onerous part of BICE.

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