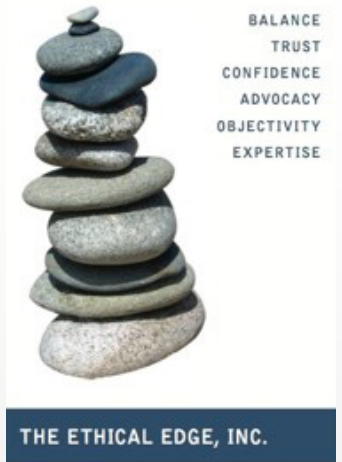




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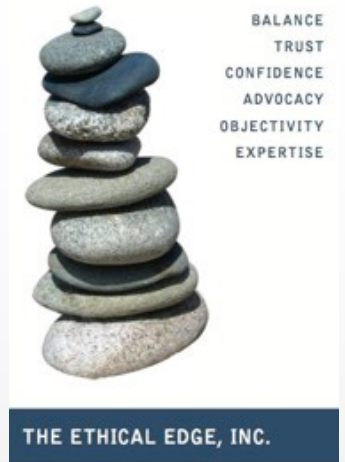
DOL Fiduciary:

When They're Running You Out of Town - Get at the Head of the Line and Make it Look Like a Parade!

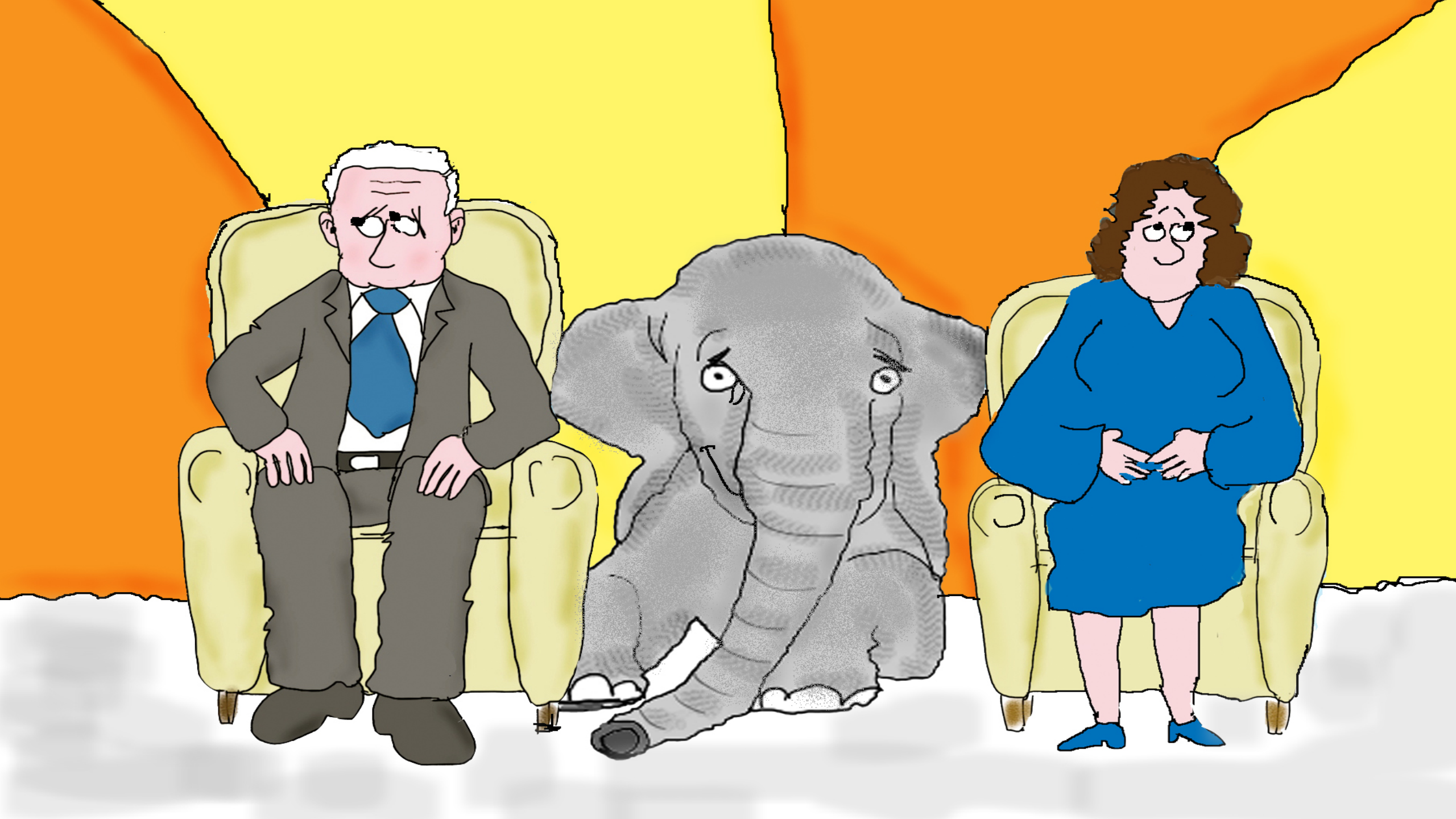


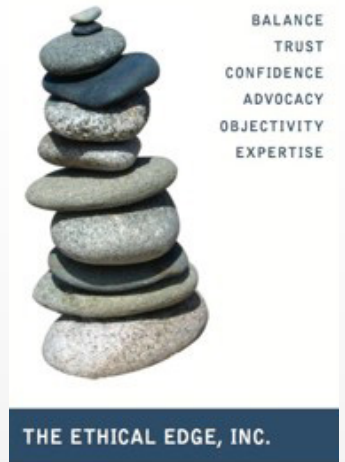
The broadest description:

Places ERISA-like fiduciary duties on *anyone* who provides advice – for compensation – involving a qualified plan – and – IRA, IRA Rollover, Roth, Cloverdell Education Savings Accounts, and Health Savings Accounts

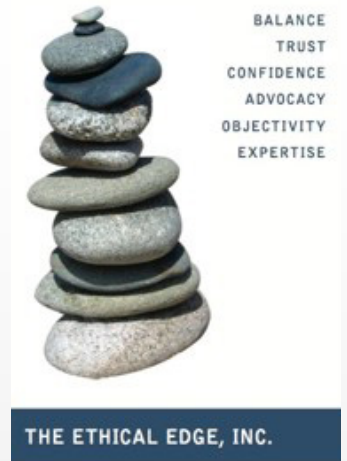


While there's a lot of complexity
to The Rule – we'd be remiss not
to address ...





- Election – Repeal, Amend, Freeze
- Trump's Priorities



Further:

- Six Lawsuits/3 Venues/Different Appointees
- FI Filings
- DOL “Guidance”
- Carrier’s Positions
- SEC

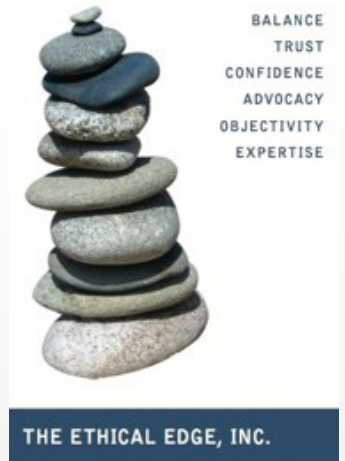


Who does it impact?



Advisors

- ✓ Brokers
- ✓ Insurance-only Advisors
- ✓ Investment Advisors



Financial Institutions

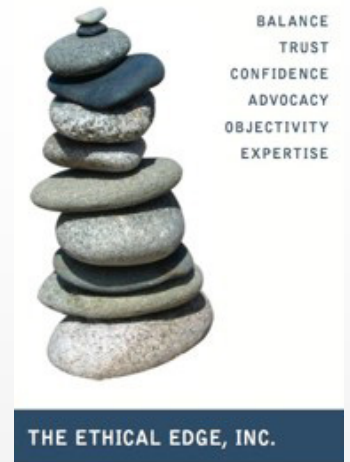
- ✓ Broker-Dealers
- ✓ RIAs
- ✓ Marketing Organizations
- ✓ Carriers & Banks



CPAs and Attorneys

Holding any or all of the below licenses – and receiving compensation for products, recommendations, or asset management – will be subject to The Rule. To continue to receive that compensation, must receive an exemption:

- Broker/Registered Rep
- Insurance licensee
- Investment Advisors Representative
- Registered Investment Advisor

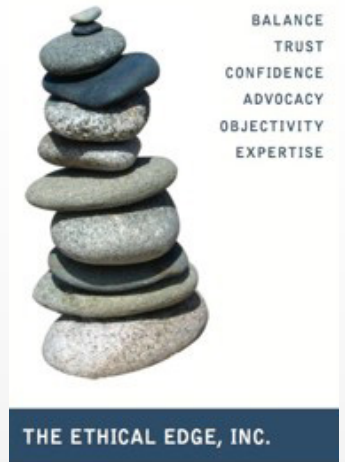


Variable compensation

Needs a BIC or 84-24 Exemption

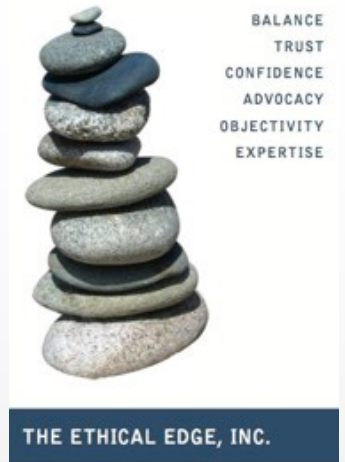
Level compensation

Requires Impartial Conduct
Standards (BIC Lite)



and of course ...

CONSUMERS



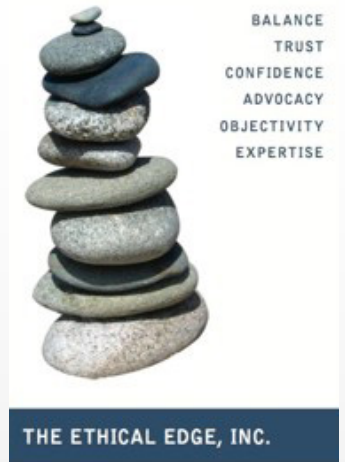
So it starts with Investment Advice

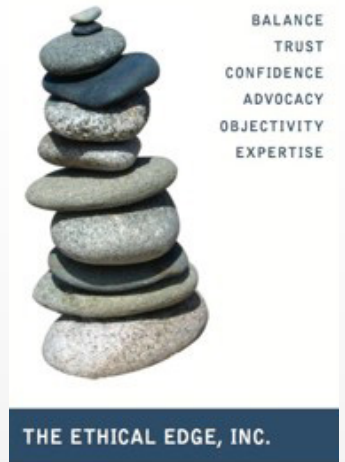
What IS investment advice?



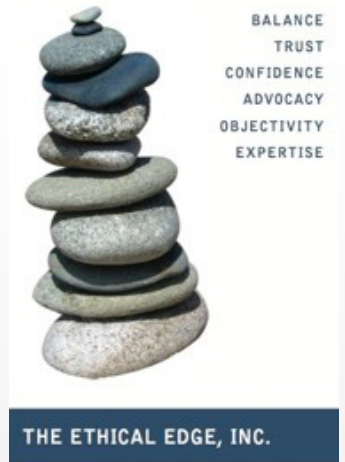
Recommendation to:

- Roll 401(k) funds
 - Existing IRA funds
 - Not to roll
 - Change allocation
- Reduce contributions in favor of non-plan alternatives
 - MAINTAIN (or increase) your contributions

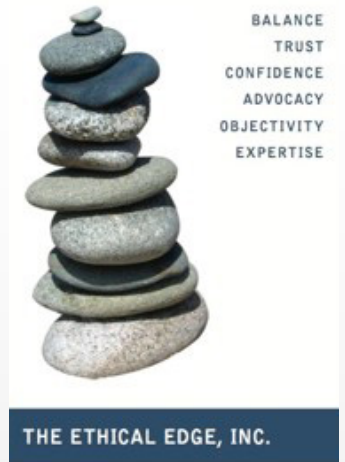




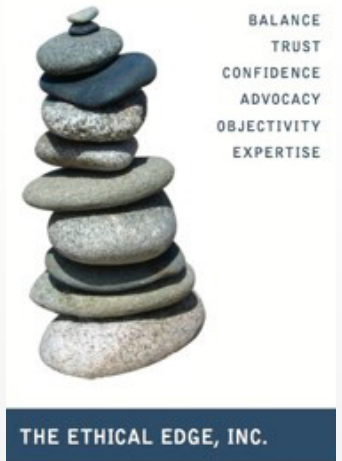
How are investment and insurance advisors impacted?



BICE – variable compensation for FIA & VA & Mutual Funds/Securities



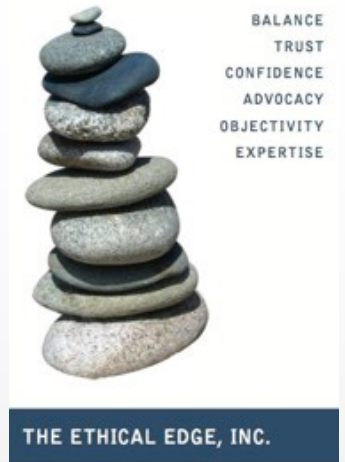
BICE Light – level fee compensation for FIA and VA and level fee securities accounts (Merrill Lynch)



PTE 84-24: Impartial Conduct Standards

Fixed annuities and traditional life
insurance

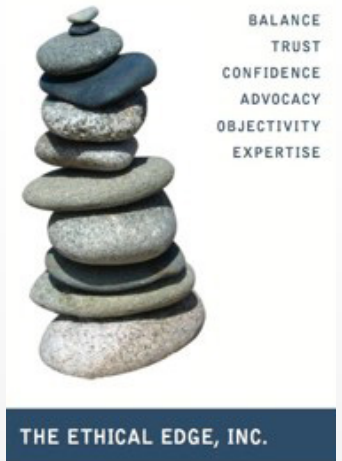
**NO OTHER FORM OF COMPENSATION
allowed!**



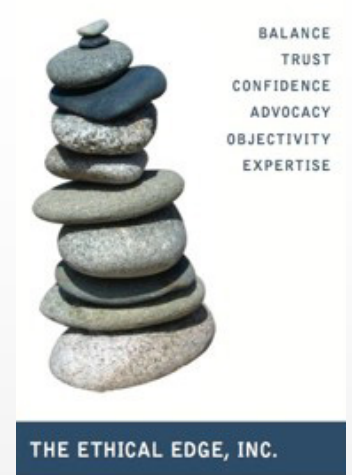
Suitability is the foundation of a
fiduciary duty



What are the essential elements of The Rule as it relates to the fiduciary standard?



1. Required Fiduciary Duty – BEST INTEREST
2. No Misleading Statements
3. Material Conflicts of Interest - Compensation
4. Prohibited Compensation
5. Disclosure & Documentation
6. Record Keeping



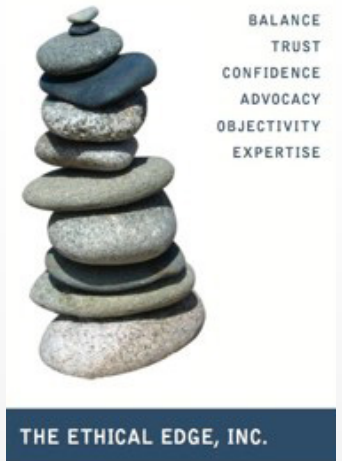
What is Suitability vs Fiduciary Duty?



SUITABILITY: Advisor/Agent must demonstrate they made recommendations based on their client's financial objectives, risk tolerance, financial circumstances, and needs through such information as ...

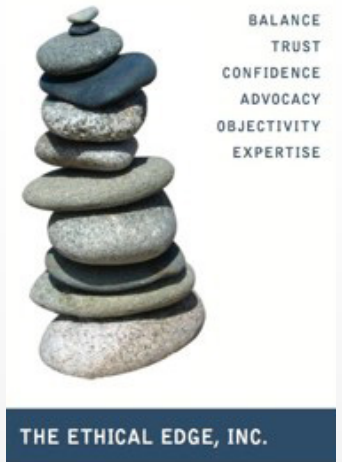


- Age
- Annual income
- Financial situation and needs, including the financial resources used for the funding of the annuity/investment
- Financial experience



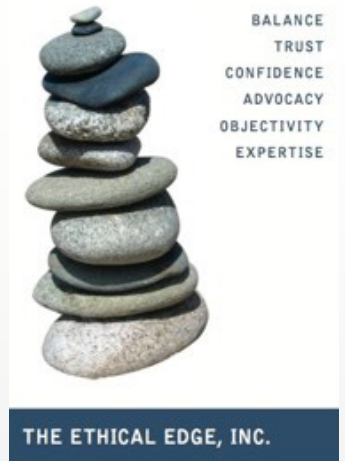


- Financial objectives
- Intended use of the annuity
- Financial time horizon
- Existing assets, including investment and life insurance holdings
- Liquidity needs



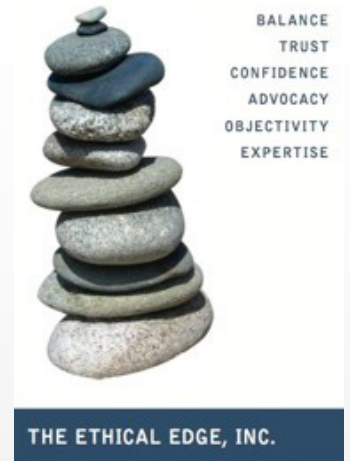


- Liquid net worth
- Risk tolerance
- Tax status
- Whether or not the consumer has a reverse mortgage



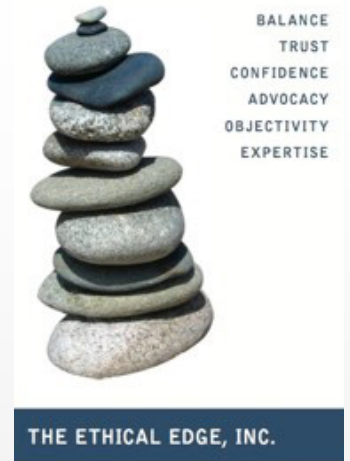


FIDUCIARY: In addition to recommending suitable products or planning advice, the Advisor/Agent must demonstrate they acted with:



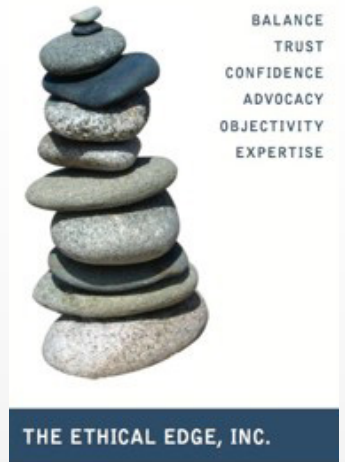
✓ Care ✓ Prudence
✓ Skill ✓ Diligence

... that a prudent person would make under the circumstances - and made recommendations based on their client's financial objectives, risk tolerance, financial circumstances, and needs.



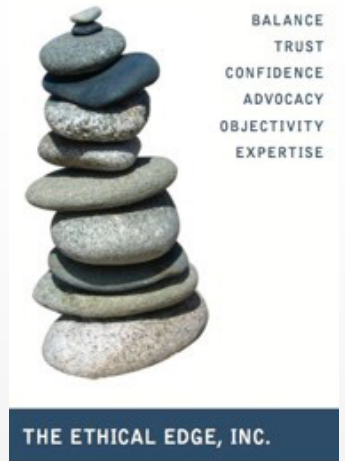
DOL FIDUCIARY requires

1. Advice that is “not merely” suitable but in their “sole” interest
2. Only “reasonable” compensation permitted
3. No misleading statements are made about the advice, compensation or material conflicts.



Material Conflicts of Interest Disclosure

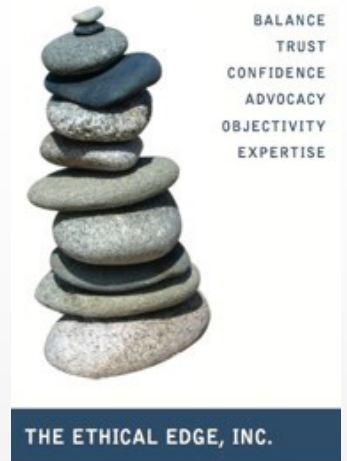
- Financial or other interest that could affect the exercise of best judgment as a fiduciary in rendering advice
- **Failure to disclose** a material conflict of interest is deemed misleading and prohibited.



Penalties:

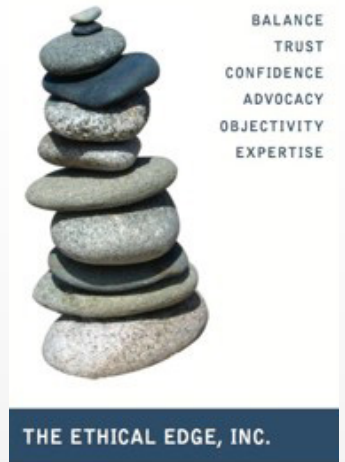
Any transaction deemed prohibited will be subject to IRS excise taxation = 100% of prohibited transaction.

Section 4976 IRC

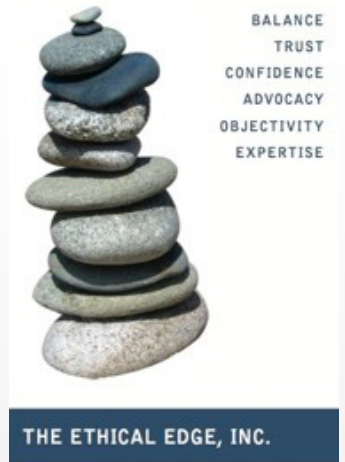


Record Keeping

- Six Years
- Demonstrate compliance with all PTE requirements and your supervisor's policies & procedures.



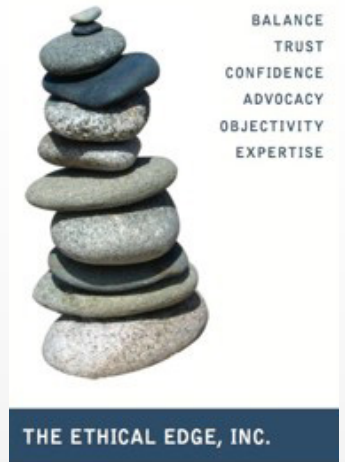
What can agents & advisors do NOW?



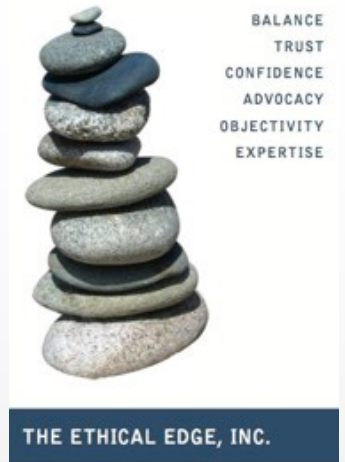
1. Develop/Update Record Keeping Protocol
2. If you have CRM – CLEAN IT with tags, grouping, differentiation of clients with qualified money and non-qualified money



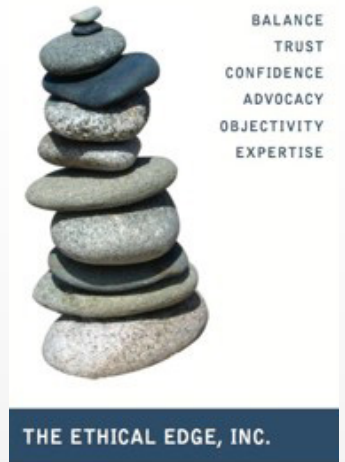
3. If you don't have CRM – GET IT
4. Identify a Software Solution to Assist with CRM Management, Compliance, Documentation & Recordkeeping



What Should a Software System/Platform Look Like?



Prudence focuses on the process for making fiduciary decisions. Therefore a software platform will not only help you serve your clients, it will be your defense against any claims.



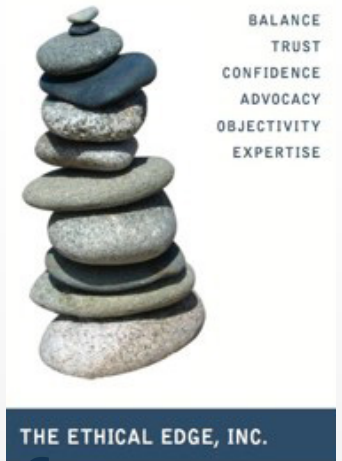
Software System or Platform should:

1. **Identify** Client's Interests, Goals, Time Horizon and Risk Tolerance
2. **Document** Key Factors that were considered in making recommendation
3. **Record** Client's Acknowledgement of and Agreement with the information gathered



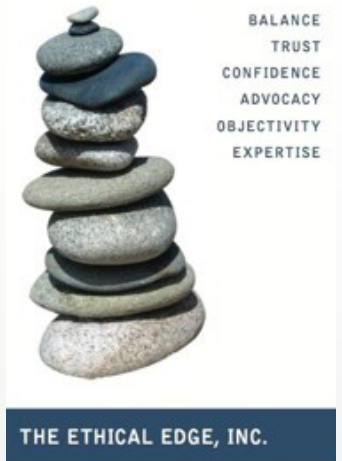
Software System or Platform should:

4. **Show** meaningful comparisons and reasons for selection
5. **Promote** Diversification – another key fiduciary duty – to help minimize the risk of investment losses
6. **Meet** the Time Horizon Needs of the Client



Advise your clients on the insured benefits of risk transfer products:

- ✓ Life
- ✓ Annuities
- ✓ Disability
- ✓ LTCi



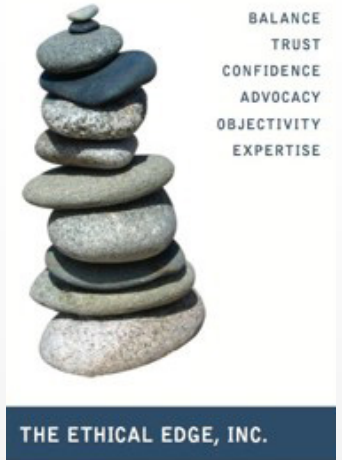
AUM and Planning Advisors WARNING:

If you don't include risk identification, mitigation, and transfer discussion and review with your clients – you may not be acting in their best interest – and as a result - be vulnerable to a lawsuit!



Kim O'Brien
MBA, CEO and
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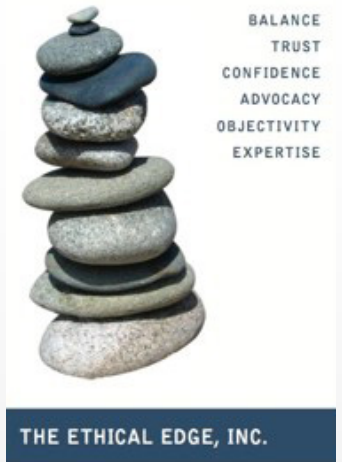
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Questions?





THANK YOU!

