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# Torrillo & Associates

Benefit Plan Audit Specialists

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**DOL Releases Consumer  
Protections for Retirement  
Investors – FAQs on Your  
Rights and Financial Advisers**



In January 2017, the U.S. Department of Labor, Employee Benefits Security Administration released its [CONSUMER PROTECTIONS FOR RETIREMENT INVESTORS – FAQs ON YOUR RIGHTS AND FINANCIAL ADVISERS](#).

Per the Department of Labor, beginning on April 10, 2017, retirement investors will benefit from important new protections requiring that financial advisers act in their best interest. While many investors think that their financial adviser already is required to act in their best interest – like their doctor or their lawyer – the law hasn't always required it. Financial companies often pay advisers more to promote certain products rather than to recommend what is best for their customers. That incentive creates what is known as a *conflict of interest*. And conflicts of interests sometimes can cause advisers to give bad advice.

The Department of Labor's recently adopted Conflict of Interest Rule protects retirement investors by requiring advisers to adhere to a *fiduciary* standard and give advice that is in the investor's best interest. After April 10, advisers who are paid to make recommendations about retirement accounts, such as individual retirement accounts (IRAs) and 401(k) accounts, will be treated as *fiduciaries*. This includes advisers who are paid directly by you or paid indirectly

through commissions or other payments they may receive from third parties. As fiduciaries, they must protect their customers from harmful conflicts of interest. The new protections generally require that advisers:

- Satisfy a professional standard of care when making investment recommendations (give prudent advice);
- Put their customer's interest first when making recommendations (give loyal advice);
- Avoid misleading statements about conflicts of interest, fees, and investments;
- Follow policies and procedures designed to ensure adherence to the best interest standard and to prohibit financial incentives for advice that is not in the customer's best interest;
- Charge no more than reasonable compensation for their services; and
- Disclose basic information about fees and conflicts of interest to retirement investors.

For the complete FAQ, please visit <https://www.dol.gov/sites/default/files/ebsa/about-ebsa/our-activities/resource-center/faqs/consumer-protections-for-retirement-investors-your-rights-and-financial-advisers.pdf>

### **Questions 401(k) and IRA Investors Should Ask Their Financial Adviser**

- Will you acknowledge in writing that you are a fiduciary when you make investment recommendations to me? In other words, will you agree that you are legally required to make investment recommendations only that are in my best interest? If not, why?
- Are you and your firm complying with the Department of

Labor's conflict of interest rule and exemptions on fiduciary investment advice? If you use one of the exemptions, explain the conflict of interest you have that requires you to comply with the exemption.

□ Do you have a credential or designation from an accredited program that requires training and that holds its members to strict ethical standards? Does the organization let investors file complaints about people that they have issued adviser designations?

□ What fees and expenses will I be charged? Will you give me a list of those fees and expenses, and explain what each fee and expense pays for? Do I pay all of these fees and expenses directly to you or are any fees or charges taken out of my investments?

□ Do you or your firm get paid from any other sources in connection with my business with you? Do you or your firm pay anyone else because I opened an account with you or because I make investments that you recommend?

□ Do you make more money if I buy some investments instead of others? Explain why.

□ Are there any limitations on the investment products you will recommend? If so, what are they? For example, do you sell only your firm's products ("proprietary products") or do you sell products from other companies?

□ Under what circumstances will you monitor my investments and make recommendations about changing my investments?

□ What are your reasons for recommending a rollover from my current plan or IRA? What are the alternatives to a rollover? Will I have to change my investments if I move my retirement savings to an IRA or a different plan? How do the fees and expenses compare to what I am paying now? Why do you think a rollover is better than leaving my retirement savings in my

current retirement plan or IRA?

□ What is your experience with giving advice on retirement accounts? What customer references or customer satisfaction surveys are available for my review?



□ For other questions to ask, see “Questions You Should Ask About Your Investments and What To Do If You Run Into Problems” at: [www.sec.gov/investor/pubs/askquestions.htm](http://www.sec.gov/investor/pubs/askquestions.htm), and “Where Do I Start” at [www.finra.org/investors/where-do-i-start](http://www.finra.org/investors/where-do-i-start).



**Phone:**

**Email:**

**Address:**

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## Who We Are

Torrillo & Associates, LLC specializes in employee benefit

plan audits including 401k audits, 403b audits, pension plan audits, and other retirement plan audits. We are licensed in 10 states including Pennsylvania, New Jersey, Delaware, New York and Florida. We are also able to practice in additional states that have passed firm mobility.

## Recent Articles

- [Executive Order Issued to Expand Access to Alternative Assets for 401\(k\) Investors](#)
- [DOL Promotes New On-Line Self-Correction Program](#)
- [DOL Files Amicus Brief Supporting Use of Forfeitures to Reduce Employer Contributions](#)
- [US Department of Labor Rescinds 2022 Guidance on Cryptocurrency in 401\(k\) Plans](#)

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