

Fiduciary Governance | September 28, 2023 Massachusetts Supreme Judicial Court Upholds Massachusetts Fiduciary Rule



On Aug. 25, 2023, the Massachusetts Supreme Judicial Court unanimously upheld the Massachusetts Fiduciary Rule (the March 2020 Rule), which holds broker-dealers to the same fiduciary standard as investment advisers. This holding is the first of its kind as the Securities and Exchange Commission and other states do not hold broker-dealers to the same high fiduciary standards investment advisers must meet. This is because broker-dealers, unlike investment advisers, typically do not provide personalized advice on an ongoing basis. The Supreme Judicial Court decision reverses a March 2022 lower-court ruling invalidating the March 2020 Rule, stating that Secretary of the Commonwealth of Massachusetts William Galvin had overstepped his authority in promulgating the March 2020 Rule under the Massachusetts Uniform Securities Act (MUSA) and lacked the authority to adopt it.

The original case was brought in April 2021 by Robinhood Financial LLC (Robinhood), an online brokerage firm, after Robinhood was the subject of Massachusetts' first enforcement action brought under the March 2020 Rule for targeting and taking advantage of inexperienced investors. Robinhood sought to have the March 2020 Rule reversed. The Suffolk County Superior Court held that the March 2020 Rule conflicted with common law, which held that broker-dealers are not fiduciaries when they simply execute trades without providing investment advice.

Following the Suffolk County Superior Court's ruling that found that Galvin had overstepped his authority in promulgating the March 2020 Rule, the state's Supreme Judicial Court was required to review challenges to government agency regulations.

Upon review, the Supreme Judicial Court held that "[William Galvin's] determination that the fiduciary duty rule was necessary for that purpose is owed deference, where, as here, the conclusion is supported by the extensive regulatory record." Under the MUSA, Galvin has the power to define "unethical or dishonest conduct practices" as he deems appropriate.

Furthermore, the court held that Galvin considered various factors before implementing the rule, including his securities division's experience, empirical studies and public comments.

Robinhood reported that in light of the Massachusetts Supreme Judicial Court's decision, it is currently evaluating its potential options.



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