Wells Fargo Advisors now under investigation by Galvin

Massachusetts securities regulator cites DOL fiduciary rule when discussing probe that will focus on investors moved into higher-fee accounts, 401(k) rollovers

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By Mark Schoeff Jr.

Massachusetts Secretary of the Commonwealth William Galvin opened an investigation of Wells Fargo Advisors on Thursday, targeting whether the firm inappropriately moved investors into higher-fee accounts.

The Massachusetts action comes on the heels of the U.S. Department of Justice's ordering Wells Fargo to conduct an internal investigation of its wealth and investment management business after whistleblowers flagged "sales problems" in the unit.

Mr. Galvin said he would seek information about the transfer of clients from brokerage accounts to managed
The Massachusetts regulator recently brought an **enforcement action against Scottrade Inc.** related to the partially implemented Labor Department fiduciary rule. He referred to that regulation again in relation to his probe of Wells Fargo Advisors.

"I am aware there has been a recent trend in the industry to push investors into wealth management accounts, which may bring more revenues to the firm but which are not suitable for all investors," Mr. Galvin said in a statement. "Given the recent retirement savings crisis in America, referrals and recommendations involving 401(k) accounts should be closely scrutinized, in light of the Department of Labor's fiduciary rule."

Wells Fargo responded by pointing to its ongoing internal investigation, which it highlighted in a recent **Securities and Exchange Commission filing**.

"Our top priority is to rebuild trust with all of our stakeholders," Wells Fargo spokeswoman Shea Leordeanu said in a statement. "The disclosures in the 10-K filing reflect our continued commitment to transparency, even when all of the information or the final outcome of a matter may not be known just yet. We are making significant progress in our work to identify and fix any issues, make things right and build a better, stronger company."

Mr. Galvin also said he wants to make sure harmed Massachusetts investors are made whole after the Wells Fargo internal investigation.
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under a review mandated by President Donald J. Trump that could lead to major changes.

Mr. Galvin is setting the tone "as the regulator who is going to lead the push on the DOL rule," said Brendan McGarry, an attorney at Kaufman Dolowich Voluck.

Even though the Wells Fargo investigation is broader in scope than the action against Scottrade, Mr. Galvin could make the same case against Wells Fargo to the extent that Wells Fargo violated the DOL fiduciary rule, according to Marcia Wagner, owner of The Wagner Law Group.

She expects other states to pay attention.

"At least in those states where the securities regulator is a supporter of the fiduciary rule, it is likely that the actions taken by Galvin against Wells Fargo, and in similar future instances of alleged misconduct, will be followed," Ms. Wagner wrote in an email.

A common response to the DOL rule by brokerages has been to move clients from commission-based accounts to fee-based accounts, as brokers try to avoid variable pay that would require use of a best-interest contract that exposes them to class-action lawsuits.

But the DOL rule's impartial conduct standards, which are in effect, also could be violated by transferring a buy-and-hold client from a brokerage account to an advisory account, according to Joshua Lichtenstein, a partner at Ropes & Gray.

"Even though we're in this transition period, if you are moving investors into a fee-based acc..."
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