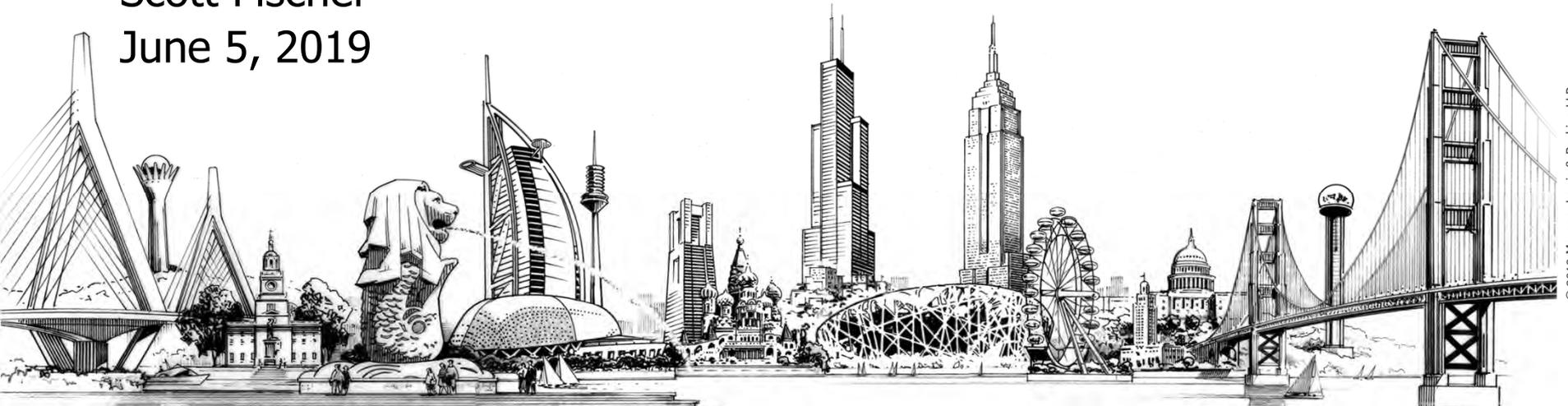


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PREPARING FOR DFS'S BEST INTEREST REGULATION

Scott Fischer
June 5, 2019



History

- Obama-era Department of Labor “Fiduciary Rule”
- Industry/NAIC Response
- 5th Circuit Changes Everything
- Industry/NAIC Response
- Other states

Take Aways

- Why DFS did it
 - Why it matters
- Highlighting what it does and what it doesn't
- Considerations for preparing

Why?

- Politics and Personalities
- Shifting Landscape
- Cyber Regulations

What Does It Do?

- Created a Scheme in Four Parts and Set Them in Contrast
 - Term v. Permanent
 - New Sales v. In-Force Transactions
- Redefined “Recommendation”
- Added a Best Interests Standard
 - Defined Best Interests
- Added Disclosures
- Required Supervision
- “Financial Planner”
- Required Fee v. Commission Comparison
 - Allows for Comfort of DFS Prior Approval
- Specified Certain Exempt Transactions

What Doesn't It Do?

- No Private Right of Action
- Not a Fiduciary Standard
- Treats Term More Easily
- No Hindsight Judgments
- Price is Not Dispositive

Things to Consider in Preparing

- Context Counts
- Look at Some of the Changes
- Consider DFS Examiner's Perspective
- Opportunity
 - Advertising
 - AI and BI

QUESTIONS?

Biography



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Scott Fischer works with members of the firm's finance team focusing on multiple aspects of insurance representations, including restructuring and bankruptcy, transactional, and regulatory matters. Scott joined Morgan Lewis in 2018 following more than six years of service in state government, most recently serving as executive deputy superintendent for insurance at the New York State Department of Financial Services, where he led several hundred employees in supervising approximately 1,700 insurers operating in New York with assets exceeding \$4.2 trillion.

Prior to taking that post, Scott was first deputy general counsel and then special deputy superintendent at the New York Liquidation Bureau, where he managed a staff of more than 200 employees overseeing the liquidation proceedings of more than 25 domestic insurers, handling thousands of claims eligible for New York insurance security fund coverage, and distributing more than \$500 million in claim payments and estate dividends. Earlier government positions include senior counsel at New York State Insurance Department and assistant attorney general at the New York State Office of Attorney General. Scott began his legal practice as an associate at a number of other global law firms.

THANK YOU

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