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Definition of the Term Fiduciary; Conflict of Interest Rule - Retirement Investment Advice; Best Interest Contract Exemption; etc.

Comment On: EBSA-2010-0050-3491
Definition of Term Fiduciary; Conflict of Interest Rule-Retirement Investment

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Comment on FR Doc # 2017-04096

Submitter Information

Name:
Organization:

General Comment

Dear Mr. Secretary:

As a licensed financial professional serving the retirement and investment needs of my clients, I urge you to thoroughly assess the impact of the fiduciary rule, consistent with the President's questions about loss of choices for retirement investors, increased litigation costs and other negative impacts on my clients' ability to save for the future.

Like many advisors across our profession, I fully support a best interest standard that puts my clients' interests first; however, the Department of Labor's (DOL) Fiduciary Rule is not an effective approach. The DOL Rule, as written, limits choice, increases complexity, and presents an increased opportunity for litigation, which will further raise costs for investors and investment firms alike.

The President's Memorandum to the Department dated February 2, 2017, directed the DOL to review the Rule and its accompanying exemptions to determine if they might harm investors by limiting their access to certain offerings, product structures, information or financial advice. Once the financial services industry began its review of the Rule and accompanying exemptions, it became immediately apparent that clients' access to investment products and options would be negatively impacted. Some firms have announced they will no longer offer commission-based accounts at all or will limit the product offerings available in a commission arrangement. Many retirement savers have already received notifications from their financial firms that their account size or structure would no longer be supported. Complying with certain aspects of the Best Interest Contract Exemption has led many firms to make wholesale changes to their business models. These changes leave retirement investors with fewer choices and reduced opportunities to choose products and/or structures that are most beneficial to meet their needs and goals.

The President's Memorandum also asked whether the Rule is likely to cause an increase in litigation, which might increase retirement investors' costs to access retirement services. There is no doubt that litigation will increase under the Rule as the class action lawsuit is deemed to be a central enforcement mechanism of the Best Interest Contract. As financial firms experience an increase in litigation costs, it is natural to assume that these costs will ultimately be passed on to retirement investors.

The Department of Labor should undertake a full-scale review to determine whether this is the best policy to accomplish the intended goal.

Thank you for your attention to this important issue.

Sincerely,