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To: FiduciaryRuleExamination - EBSA
Subject: the birth of DOL fiduciary rule

It makes sense to understand what may have initiated “the birth of the DOL fiduciary rule. It started with a “staff study” produced by one of the employees at the Department of Labor doing a “personal” assessment of the Federal Government’s Thrift Saving Plan (TSP). The assessment was flawed on many issues and levels. As an example It stated that the internal fees for the TSP were 25 cents per thousand dollars invested. One can only guess if he was referring to the 25 basis points the Thrift Savings Administrator assessed to perform their functions. There is a OMB assessment of the Government Thrift savings plan that apparently shows the internal costs are closer to 8% which if true far exceeds any internal fees charged by the major ERISA plan providers.

The Thrift Savings Administrator evidently also assessed the plan holders around \$35 million to rebuild their operation in Alabama after Hurricane Katrina destroyed their facility in Louisiana. I wonder what would happen if Goldman Sachs or any other plan administrator assessed 401K plan holders a fee from client assets to rebuild their operation.

Past performance is no guarantee of future performance but the Federal Government Thrift Saving Plan did not win any races and like many other government programs the customer service left a lot to be desired. The ability to offer a Roth like 401K became available in 2006 but it took the TSP administrator almost a decade to offer a Roth version of the TSP. From a flexibility perspective the TSP and like many other 401K/403B type plans do not offer many of the benefits or investment opportunities available and can be restrictive when doing the required estate planning for the family heirs.

Department of Labor is responsible for ERISA plans, the IRS is responsible for IRAs and State Insurance commissioners are responsible for annuities so have never understood why the different entities permitted DOL to overstep their bounds. It then begs the question how does DOL envision enforcement of their rule unless they expect lawyers to enforce it since it is clearly written by lawyers for lawyers and does not take into account the volumes of regulatory requirements and processes placed on the financial system by FINRA and the Security Exchange Commission.

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