

# PUBLIC SUBMISSION

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Definition of the Term ‘Fiduciary’; Conflict of Interest Rule—Retirement Investment Advice; Notice of proposed rulemaking and withdrawal of previous proposed rule.

**Comment On:** EBSA-2010-0050-0204

Definition of the Term Fiduciary; Conflict of Interest Rule- Retirement Investment Advice

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## General Comment

I am writing to comment on the proposed Department of Labor regulation on fiduciaries and other matters. I am particularly concerned about the effect on IRA's. I am a retiree and a holder of substantial savings in IRA accounts. As I have retired, I have managed these accounts prudently through weak and strong markets so I am an investor that any regulation should consider as the primary beneficiary.

As I understand the proposed regulation, there will be more onerous obligations placed on investment advisors broker dealers and others in making recommendations and proposed investments for participants in IRA's and 401 k plans. These regulations are unduly burdensome and will have a chilling effect on the ability of investment professionals in offering good faith recommendations to those holders of IRA's. This will be counterproductive to the benefits of an IRA. As currently constituted, many, if not most participants underutilized the various market options available to investors through IRA's, resulting in an overconcentration in the lowest returning, most risk averse investments. This undermines the substantial benefits from a diversified pool of investments, including various equity instruments. By further regulating the provision of advice and regulation of advice and proposed investments, you will make the situation even worse by chilling any efforts to improve long term returns through investments by further encouraging only the most risk averse and lowest returning investments. This will impair the retirement security of the American

populace, which is already very fragile, given the impending bankruptcy of the Social Security. Investments by their very nature are risky but over time the investments with the most volatility, common stocks, have provided the greatest return despite that volatility. Such regulations will only enrich tort attorneys at the cost of the investor themselves.

One final point, I understand that the proposed regulation will further inhibit the already constricted use of options in IRA accounts, under the mistaken view that options are inherently highly risky. This view is deeply flawed as options can readily be used to reduce risk. Currently permitted covered calls enable an investor to obtain some return in a falling market or environment of a stock that is stable or falling in price, with no risk to principal of the base investment. I strongly encourage the Department to eliminate the further restriction of the use of options in IRA's.