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To: EBSA, E-ORI - EBSA

Subject: Comment on RIN 1210-AB32 (Definition of the Term Fiduciary; Conflict of Interest Rule-Retirement Investment Advice)

Ladies and Gentlemen:

Thank you for the opportunity to comment on the proposed rule on fiduciary status for all those providing financial advice for those possessing retirement assets. I am strongly in favor of such a rule.

I am a retired investment professional with thirty-six years experience, concurrently in both institutional and personal advice, with the last twelve years serving as a professional investment manager for a corporate-sponsored employee savings plan subject to ERISA.

There are numerous reasons favoring the proposed rule:

-Participants leaving a plan, perhaps to an individual IRA, have every reason to expect the same level of protection they enjoyed under an institutional plan.

-Participants are generally anxious about their retirement investments, which often compose a substantial part of their savings, and are ill-equipped to evaluate critically the cost and efficacy of advice being offered. Financial advice is not a completely efficient market by any means.

-Participants not familiar with the investment industry, and that encompasses most of them, generally do not know how, to whom, or how much they are paying in fees. Whatever the motivations were for adopting Rule 408(b)(2) for sponsors of defined contribution plans, they must apply many times more for individuals.

-Participants generally believe they are getting advice that is rendered in their best interest. They deserve to know, clearly, about any conflicts of interests, whether actual, probable, or possible.

--Certain practices practiced by the industry, such as the solicitation of rollovers from 401(k) plans to individual IRAs, are currently labelled as "education", not "advice." All one needs to do is freeze the ending screen of a commercial on the subject to read the three-second disclaimer in fine print to see this.

There are also many reasons for objecting to such a rule, or at least extending the comment period before considering such a rule:

-Middle class, smaller balance clients will be forced out of the advice marketplace due to the increased cost of compliance.

--This does not withstand realistic scrutiny.

---Most advisors are allied with a major investment house that routinely recommends generic composite portfolios based on various criteria. No one seriously doubts the resources of these firms. Refining these portfolios with an eye toward implementation of the proposed rule, while not costless, would not be a Herculean task. Continued consolidation of the brokerage industry might occur, subject to regulatory oversight, but this has been going on for decades due to a relentless focus on costs by these houses. (When I entered the business, one of Wall Street's finest trading firms was Bache Halsey Stuart Shields. Not a trace of it exists.)

---There are a number of reasonably priced, fee-only advice services available in the marketplace. If estate tax issues exist, where the fee-only advice might fall short, then the client would hardly be considered a small balance one.

---As an historical example, when the SEC abolished fixed commission rates for equity share trading on May 1, 1975 (the "Big Bang"), the brokerage industry predicted a massive decline in liquidity and trading volume since the industry would be unable to cover its costs. Exactly the opposite occurred.

--No one is suggesting advisors should not be paid. They should just disclose how, and how much. (I have no comment on the changes proposed to prohibited transactions exemptions also proposed by EBSA.)

--Thinking about it, is there an industry where making a profit by sitting in an air-conditioned office and performing a task that generally requires no more than having a few accreditations and wearing slightly nicer clothes than your clients not going to exist? This is not to belittle the industry of advisors broadly defined, but barriers to entry are low. In the case of advice, where the stakes are high, should not the standards be high as well?

--From my reading of the public comments submitted so far, the objection just listed above is the main one: it covers compensation, cost, and the possible disruption of current business practices. The advice industry is full of clever people accustomed to overcoming competitive obstacles. Extending the Comment Period is simply a way of allowing those opposed to this rule, or any rule, to marshal resources. The ideas in the proposed rule have been around for quite some time. The original rule was proposed in October 2010.

One issue not directly proposed by the rule, should it be implemented, is how clients will be informed of its impact. This issue may be premature. At such risk of being premature, I would like to suggest that the last thing that should be done is implementing one of the ubiquitous End User License Agreements, or EULAs, that pervade the software industry. A fifteen page document, often in upper case, to be signed by the client, would be virtually useless. Almost no one reads these. May I suggest instead a variant of the Miranda warning, spoken by the advisor and with a written copy to be signed by the client? (Please note, I am not an attorney):

"You have the right to unbiased investment advice rendered solely for your benefit. You have the right to receive a schedule of fees you will pay, including how much I personally will receive. You have the right to receive such a schedule for all variants of advice I propose. Any advice I propose and you accept is not and cannot be guaranteed to achieve any objective you may have. Do you understand these rights?"

Respectfully submitted,

L. Randolph Hood, CFA