

From: John W. Gruber, ChFC, CLU, RICP [mailto:johngruber48@yahoo.com]
To: EBSA, E-ORI – EBSA
Subject: Proposed Fiduciary Duty Rule Comment

June 20, 2015

Thomas E. Perez, Secretary
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Re: Department of Labor's Proposed Fiduciary Duty Rule

Dear Secretary Perez:

The BICE section of the proposed regulation requires that financial institutions are required to disclose, and update at least quarterly, all direct and indirect compensation received with respect to all assets of all retirement customers of the financial institution and all affiliates for the last 365 days. Institutions will have to provide the same information with respect to all assets that a retirement customer could possibly purchase (other than assets not commonly purchased). I ask you, how is it even possible to identify and then gather and report detailed data on every asset available in our universe of investments that are suitable for placement in a retirement plan? And to do this same exercise over and over again on a quarterly basis?

The BICE section of your proposed regulation will be impractical and costly to implement. It will be very difficult for an advisor and his supervisory firm to comply with the BICE reporting requirements. Advisors and their supervisory firms will face significantly higher risk of being found non-compliant with the new regulations and subject to fines and disciplinary action from regulatory authorities. Advisors and their supervisory firms will necessarily need to pay for these higher compliance costs by charging individual investors and other clients higher fees for services. The logical consequence of the higher cost for individual investors will be lower net rates of return, and less capability to accomplish their long-term goals like educating their children and retiring.

Because compliance with the BICE exemption will be practically impossible and the potential liability (fines and disciplinary actions) for advisors and their supervisory firms will be high, it is likely that the vast majority of financial advisors will transition to the fee based model for providing their services because this type of compensation is considered non-conflicting by the Department of Labor. Compliance and reporting requirements for advisors compensated with level asset based fees will be far less burdensome than those required of advisors seeking to work under the BICE exemption. Under the level asset based fee compensation model, most advisors are compensated a level fee based on the amount of assets under management.

Consider that according to a 2011 study by PriceMetrix, in which 15000 advisors and 1 million fee based accounts were surveyed, the average annual fee for advisory services was 1.47% on accounts with between \$250,000 - \$500,000. The advisor fee does not include the cost of investment products held in the accounts. Assuming a product fee of 0.65%, the total annual cost for an investor using the average fee based account was 2.12%.

Let's compare the average fee based account with an account serviced by an advisor who uses a commission based mutual fund. Consider the American Balanced Fund (ABALX). This is a popular commission based mutual fund with a maximum sales charge of 5.75% imposed on purchases below \$25,000. The sales charge is reduced to 2.5% for purchases of \$250,000. The total annual operating expense of this fund was 0.59% in the most recent operating year, according to the prospectus. An advisor who is compensated by commissions, who sells this mutual fund to a client as an asset to be held in a retirement account, will receive all of his compensation for serving this client from the 5.75% sales charge, and then from the 12b-1 fee, which is included in the 0.59% total annual operating expense of the mutual fund. There is no additional advisor related compensation from the sale or service associated with this mutual fund. There are no additional fees paid to the mutual fund company in this type of account either, but there may be a nominal \$10 annual custodial fee for retirement accounts. In my own practice as a financial advisor, I have been content in providing high quality financial advice and ongoing service to my clients under this type of compensation model for 26 years. I contact every one of my clients to provide account reviews and services at least once a year. And the total cost for financial advice and investment products paid by my clients has been much lower than the average costs paid by clients of advisors using the level asset based fee model.

Using the FINRA calculator tool, Fund Analyzer, a comparison of these two alternative types of compensation models yields the following results when we assume a constant 5% rate of return on both accounts:

Name of approach:	Amount invested	Total cost over 10 years	Total Value after 10 years
American Balanced Fund	\$10,000	\$1,270	\$14,472
Fee Based Account	\$10,000	\$2,441	\$13,177
American Balanced Fund	\$250,000	\$24,208	\$374,296
Fee Based Account	\$250,000	\$61,034	\$329,432

Note: I've substituted the Oppenheimer Main Street Small Cap Fund class C as a proxy for the average fee based account in the FINRA tool. The tool does not have the capability to demonstrate an actual fee based account. The total annual operating expense of the Oppenheimer fund is 2.12%, which is equivalent to the total cost associated with the average fee based account using my assumptions explained in this commentary.

See the attached document from the FINRA tool for details on the \$250,000 example I've presented in the above table.

How is it in the best interest of an individual investor to use a fee based account with average total costs when a commission based approach can be used that could reasonably be expected to yield considerably superior results net of all expenses?

Further, I have researched actual performance history published by many highly ranked institutional investment managers like Morningstar, Blackrock, Goldman Sachs, and others. When the cost of these investment managers are combined with the average advisor related fees for advice and service, none of these firms have produced net rates of return over full market cycles that are superior to comparable commission based mutual fund returns offered by notable companies like the American Funds, MainStay Funds, Franklin-Templeton and others. In fact, I find the net rates of return on the fee based platforms to be considerably inferior to those of highly ranked mutual funds such as those mentioned here.

Again, how is it in the best interest of individual investors to pay more for their retirement account advisors and product companies, unless it can be demonstrated that they will experience superior net rates of return on their investment?

Our industry already has a strong regulatory environment that promotes the best interest of individual investors with their financial advisors. Are there some bad actors among financial advisors? Of course there are. These bad actors can be fined, disciplined, and even jailed for their actions.

More can be done to foster the best interest of individual investors and all participants in the retirement savings arena, but the Department of Labor's current proposal for fiduciary reform is not the way to accomplish this. The BICE exemption portion of this proposal is what I've focused on here, but I believe the entire proposal needs to be set aside and an entirely new effort should be undertaken by a joint committee comprised of a cohort of individual investors, industry leaders, SEC, FINRA and Department of Labor representatives.

Submitted by:

John W. Gruber, ChFC, CLU, RICP
Manager
Living With Money LLC
15007 Middle Fairway Dr.
Spring Hill, FL 34609
585-309-0622



Fund Analyzer Report

American Funds American Balanced Fund® Class A [ABALX]
 Oppenheimer Main Street Small Cap Fund Class C [OSCCX]

EXPENSE ANALYSIS Summary

	American Funds American Balanced Fund® Class A	Oppenheimer Main Street Small Cap Fund Class C
	Data as of 6/16/2015	Data as of 6/5/2015
Ticker Symbol	ABALX	OSCGX
Investment Amount	\$250,000.00	\$250,000.00
Estimated Return You Selected	5.00%	5.00%
Holding Period	10	10
Fund Value After 10 Year(s)	\$374,296.48	\$329,432.20
Profit/Loss	\$124,296.48	\$79,432.20
Total Fees & Sales Charges	\$24,208.06	\$61,034.89
Total Fees	\$17,958.08	\$61,034.89
Total Sales Charges	\$6,250.00	\$0.00

Redeemed Fund Value Over Time After Expenses

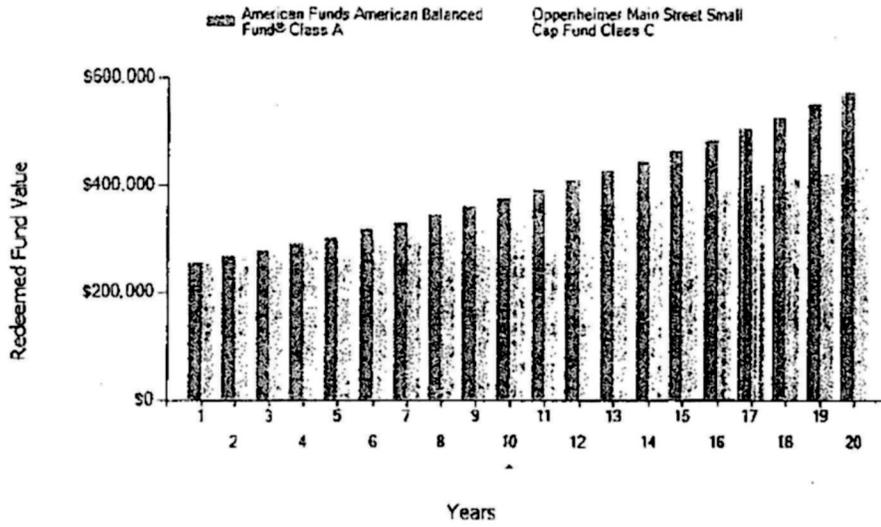


Chart Details

Year	American Funds American Balanced Fund® Class A			Oppenheimer Main Street Small Cap Fund Class C		
	Redeemed Value	Profit/Loss	Fees & Expenses	Redeemed Value	Profit/Loss	Fees & Expenses
1	\$254,432.00	\$4,432.00	\$7,719.42	\$254,493.78	\$4,493.78	\$7,873.95
2	\$265,582.13	\$15,582.13	\$9,253.24	\$264,163.21	\$14,163.21	\$19,896.24
3	\$277,220.69	\$27,220.69	\$10,854.28	\$271,573.77	\$21,573.77	\$16,577.06
4	\$289,369.71	\$39,369.71	\$12,525.48	\$279,171.08	\$29,171.08	\$22,414.76
5	\$302,050.94	\$52,050.94	\$14,269.92	\$286,980.92	\$36,980.92	\$26,415.76
6	\$315,287.80	\$65,287.80	\$16,090.80	\$295,009.25	\$45,009.25	\$34,584.65
7	\$329,104.95	\$79,104.95	\$17,991.48	\$303,262.17	\$53,262.17	\$40,926.11
8	\$343,527.51	\$93,527.51	\$19,975.46	\$311,745.96	\$61,745.96	\$47,444.97
9	\$358,582.12	\$108,582.12	\$22,048.36	\$320,467.10	\$70,467.10	\$54,146.20
10 Year(s)	\$374,296.48	\$124,296.48	\$24,288.85	\$328,432.20	\$78,432.20	\$61,034.89
11	\$390,699.50	\$140,699.50	\$26,464.47	\$338,648.11	\$88,648.11	\$68,116.30
12	\$407,821.36	\$157,821.36	\$28,819.77	\$348,121.83	\$98,121.83	\$75,395.81
13	\$425,693.56	\$175,693.56	\$31,278.28	\$357,860.55	\$107,860.58	\$82,878.97
14	\$444,348.89	\$194,348.89	\$33,844.53	\$367,871.77	\$117,871.77	\$90,571.46
15	\$463,821.90	\$213,821.90	\$36,523.25	\$378,163.03	\$128,163.03	\$98,479.16
16	\$484,148.31	\$234,148.31	\$39,319.35	\$388,742.19	\$138,742.19	\$106,608.08
17	\$505,385.43	\$255,385.43	\$42,238.00	\$399,617.30	\$149,617.30	\$114,964.40
18	\$527,512.38	\$277,512.38	\$45,284.54	\$410,796.64	\$160,796.64	\$123,554.49
19	\$550,629.86	\$300,629.86	\$48,464.60	\$422,288.72	\$172,288.72	\$132,384.89
20	\$574,760.44	\$324,760.44	\$51,784.02	\$434,102.30	\$184,102.30	\$141,462.33

Annual Expense Comparison by Product and Share Class

	American Funds American Balanced Fund Class A	Oppenheimer Main Street Small Cap Fund Class C
Annual Operating Expenses	0.59%	2.12%
Prospective Objective	< Less than Average of Similar Balanced Mutual Funds: 1.25% (91 Mutual Funds)	< Less than Average of Similar Small Company Mutual Funds: 2.13% (176 Mutual Funds)
Morningstar Category	< Less than Average of Similar Moderate Allocation Mutual Funds: 1.24% (134 Mutual Funds)	> Greater than Average of Similar Small Blend Mutual Funds: 2.07% (80 Mutual Funds)
Morningstar Rating (3-year)	< Less than Average of Similar Morningstar 3 Star-Rated (3-year) Mutual Funds: 1.16% (978 Mutual Funds)	n/a

Fund Details

	American Funds American Balanced Fund Class A	Oppenheimer Main Street Small Cap Fund Class C																																
Investment Objective	Balanced	Small Company																																
Ticker Symbol	ABALX	OSCCX																																
Class	A	C																																
Fund Classification	Open-End Mutual Fund	Open-End Mutual Fund																																
Morningstar Rating (3-year)	★★★	n/a																																
Morningstar Style Box (Equities)	<p>Morningstar Style Box™</p> <p>Value Blend Growth</p> <table border="1"> <tr> <td></td> <td>Value</td> <td>Blend</td> <td>Growth</td> </tr> <tr> <td>Large</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Mid</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Small</td> <td></td> <td></td> <td></td> </tr> </table>		Value	Blend	Growth	Large				Mid				Small				<p>Morningstar Style Box™</p> <p>Value Blend Growth</p> <table border="1"> <tr> <td></td> <td>Value</td> <td>Blend</td> <td>Growth</td> </tr> <tr> <td>Large</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Mid</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Small</td> <td></td> <td></td> <td></td> </tr> </table>		Value	Blend	Growth	Large				Mid				Small			
	Value	Blend	Growth																															
Large																																		
Mid																																		
Small																																		
	Value	Blend	Growth																															
Large																																		
Mid																																		
Small																																		
Morningstar Style Box (Bonds)	<p>Morningstar Style Box™</p> <p>Short Int Long</p> <table border="1"> <tr> <td></td> <td>Short</td> <td>Int</td> <td>Long</td> </tr> <tr> <td>High</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Med</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Low</td> <td></td> <td></td> <td></td> </tr> </table>		Short	Int	Long	High				Med				Low				n/a																
	Short	Int	Long																															
High																																		
Med																																		
Low																																		
Fund Phone Number	800-421-4225	800-225-5677																																
Fund Web Site	www.americanfunds.com	www.oppenheimerfunds.com																																
Fund Documents	View Prospectus	View Prospectus																																
Minimum Initial Purchase	\$250.00	\$1,000.00																																

Average Annual Return: 1 Year 7.30% 11.91%

Average Annual Return: 5 Year 12.74% n/a

Average Annual Return: 10 Year 7.21% n/a

Average Annual Return: Since Inception 10.68% 13.57%

Convertible Share Class No - Fund does not convert. No - Fund does not convert

Annual Operating Expenses 0.59% 2.12%

Sales Charge Schedule (Front-End Load) or (Breakpoints)

Investment Amount	Amount	Sales Charge
\$0.00	\$25,000.00	5.75%
\$25,000.00	\$50,000.00	5%
\$50,000.00	\$100,000.00	4.5%
\$100,000.00	\$250,000.00	3.5%
\$250,000.00	\$500,000.00	2.5%
\$500,000.00	\$750,000.00	2%
\$750,000.00	\$1,000,000.00	1.5%
\$1,000,000.00	\$999,999.99	0%

This fund does not have front-end sales charges

Contingent Deferred Sales Charges: (CDSC or Back-End Load)

This fund does not have CDSC or back-end sales charges

Months	Charge
12	1%
>12	0%

Redemption Fee Schedule

This fund does not have redemption fees

This fund does not have redemption fees

FEE/DISCOUNT REPORT

American Funds American Balanced Fund Class A (ABALX) Oppenheimer Main Street Small Cap Fund Class C (OSCCX)

Date as of
3/2/2015

Date as of
5/21/2015

Load Type

Load Type Front-End Load

Level Load

Breakpoint Schedule

Sales Charge	Purchase Range		
5.750%	\$0.01-		\$24,999.99
5.000%	\$25,000.00-		\$49,999.99
4.500%	\$50,000.00-		\$99,999.99
3.500%	\$100,000.00-		\$249,999.99
2.500%	\$250,000.00-		\$499,999.99
2.000%	\$500,000.00-		\$749,999.99
1.500%	\$750,000.00-		\$999,999.99
0.000%	\$1,000,000.00-		\$9,999,999.99
0.000%	\$10,000,000.00-		\$24,999,999.99
0.000%	\$25,000,000.00-		\$99,999,999.99

Breakpoint schedules do not apply for this fund

ROA

ROA Allowed	Yes	No
ROA Inclusion	This fund is included in ROA calculations	This fund is included in ROA calculations
RCA Allowed Across Brokers	Yes	Not Applicable
ROA by Relative	<ul style="list-style-type: none"> • By Spouse • By Civil Union • By Common Law Marriage • By Parent • By Step Parent • By Child Under 21 Years of Age • By Step Child • By Trust Beneficiary • By Trust Grantor 	Not Applicable
ROA Calculation	Greater of shares multiplied by NAV or net value invested	Not Applicable

Methodology		
Front Load NAV Purchase Eligible for RCA	Yes	Not Applicable
LOI		
LOI Allowed	Yes	No
	\$25,000.00	Not Applicable
LOI Minimum		
	Initial purchase must be at least \$0.01	
	13 months	Not Applicable
LOI Fulfillment Period		
	alternate period: 13 months	
LOI Fulfillment Calculation Methodology		
	Gross Dollars Invested (purchases only)	Not Applicable
Front Load NAV Purchases Eligible for LOI?		
	No	Not Applicable
Retroactive LOI Allowed		
	No	Not Applicable
Retroactive LOI Period		
	Not Applicable	Unable to display value
Sales Charge Waivers		
NAV Repurchase Allowed		
	Yes	No
NAV Repurchase Period		
	90 calendar days	Not Applicable
	Reinstate into account with the same registration	Not Applicable
Account Rules for NAV Repurchase		
	CDSC reinvested via purchase of additional shares at NAV	
	No restrictions on reinstatement frequency	
Employee		
	Yes	No

Purchase at NAV

NAV Purchase if No
Wrap or Fee-
based Account

No

Distribution Reinvestment Distributions can be automatically reinvested (same fund or across funds in same family)- sales charges do not apply

Distributions can be automatically reinvested (same fund or across funds in same family)- sales charges do not apply

CDSC

CDSC for \$0.01 to \$999,999.99

Rate	Age
0.000000%	12 months

CDSC for \$0.01 to \$99,999,999,999.99

Rate	Age
1.000000%	12 months

CDSC Schedule

CDSC for \$1,000,000.00 to \$99,999,999,999.99

Rate	Age
1.000000%	12 months

CDSC Time Calculation Method

Share age is based upon exact settlement date (i.e. if settlement was on 6/15/2006 then 1 year is 6/15/2007)

Share age is based upon exact trade date (i.e. if trade was on 6/15/2006 then 1 year is 6/15/2007)

CDSC Fee Calculation Method

CDSC calculation uses the lower value of either the current price per share or original price per share

CDSC calculation uses the lower value of either the current price per share or original price per share

CDSC Waivers

- Error correction
- Death of one or more of the account holders
- Disability of one or more of the account holders
- Qualified distribution to one or more of the account holders at age 70.5 (Only waived for required amount)
- Systematic withdrawal plans (12)
- Defined contribution plans
- Termination distributions
- De minimus distribution from a defined contribution plan
- non-vested participant balance distribution from a defined contribution plan
- Loan distribution from a defined contribution plan
- Excess contribution distribution from a defined contribution plan

- Error correction
- Death of one or more of the account holders
- Disability of one or more of the account holders
- Qualified distribution to one or more of the account holders at age 70.5 (Only waived for required amount)
- Divorce of one or more of the account holders
- Systematic withdrawal plans (10)
- Defined contribution plans
- Due to hardship
- Termination distributions
- De minimus distribution from a defined contribution plan
- non-vested participant balance distribution from a defined contribution plan
- Loan distribution from a defined contribution plan
- Excess contribution distribution from a defined contribution plan

12B-1 Fees

Post Agreement Rate Current 12b-1 Fee is 0.250000%

Unable to display value

Redemption Fees

Short-term trading redemption fee No short-term trading fees apply

No short-term trading fees apply

Short-term trading redemption fee waivers Not Applicable

Not Applicable

Other Redemption/Exchange Fees No non-short-term redemption fees

No non-short-term redemption fees

No exchange fees

No exchange fees

Important: The Fund Analyzer was designed to help investors evaluate and compare investments in mutual funds, ETFs and ETNs. While it is a helpful tool, you should understand its limitations. The results generated by the Fund Analyzer are hypothetical. The Analyzer assumes that returns and expenses remain the same each year. Because returns and expenses vary over time, your results will be higher or lower than those shown.

Sales loads do not apply to reinvested mutual fund dividends and other distributions, and the results reflect this fact. However, the results do not reflect the application of other fees that may apply, such as ETF commissions, exchange fees, or account maintenance fees. Had these fees been considered, your costs would be higher and account values lower. Results also do not reflect all the opportunities for waivers or discounts on sales charges on load funds. These waivers or discounts may be based on, for example, letters of intent, rights of accumulation, reinstatements or NAV transfer programs. If you are entitled to them, you should take them into account when estimating your actual expenses. Remember that selecting a fund involves more than just comparing fund expenses and fees. You should read a fund's prospectus carefully before investing to learn about the fund's investment objective, strategies, risks, and the taxes you may have to pay when you receive a distribution. As with any investment, make sure a fund's objectives and goals are consistent with your own and assess how it will impact the diversification of your portfolio.

Breakpoints: Mutual funds with front-end loads or sales charges enable you to reduce front-end charges as the amount of your investment increases to certain levels called "breakpoints." While breakpoints vary from fund to fund, based on the investment amount you entered, you may be at or near a breakpoint. Please see the Fund Details report for additional details or if additional breakpoints will reduce the front-end sales charge further. For more information on breakpoints, please read FINRA's Investor Alert — Mutual Fund Breakpoints: A Break Worth Taking.

Brokers: The Fund Analyzer does not satisfy a broker's obligation to assess the suitability of a particular investment for a particular investor. Brokers also are encouraged to review finra.org's publications that outline a broker's obligation to deliver breakpoint discounts, including Notice to Members 02-85 and FINRA's online Webcast, "Mutual Funds: Share Classes & Breakpoint Discounts."

We hope you find FINRA's Fund Analyzer helpful. If you have any questions or ideas about how we can improve this tool, please email us.

Data Services Provided By: Calculation Methods and Accuracy Audited By:

