

PUBLIC SUBMISSION

As of: 7/20/15 3:01 PM
Received: July 20, 2015
Status: Pending_Post
Tracking No. 1jz-8k33-1uqc
Comments Due: July 21, 2015
Submission Type: Web

Docket: EBSA-2010-0050

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-2010-0050-0205

Definition of Fiduciary; Conflict of Interest Rule-Retirement Investment Advice and Related Proposed Prohibited Transaction Exemptions; Hearing and Comment Period Extension

Document: EBSA-2010-0050-DRAFT-2541

Comment on FR Doc # 2015-14921

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General Comment

We are concerned that the current proposal is unworkable and aimed at those who already seek to act in the best interests of clients. The proposal contains provisions that will have the unintended consequence of leaving many retirement savers without access to professional education, advice and service as hardworking, ethically sound advisers will not want to be subject to this type of liability just to earn a living in their chosen profession.

American investors need reliable education, affordable retirement advice and clear and easily understood disclosures. While it seems that the easier path is to subject our industry to these broad sweeping regulations aimed at routing out "unseemly" or "bad actors", this proposal will have the opposite effect. It will prevent competent, ethical advisers from servicing any type of retirement account while at the same time having absolutely no effect on the "bad actors" currently operating withing our industry.

Unfortunately, the current draft (i) subjects small IRA account holders who typically buy and sell mutual fund products to a fee-based model as opposed to receiving advice from an adviser who receives an upfront commission and/or 12b-1 fees, perhaps on a one-time basis; (ii) prohibits an adviser from providing advice to plan sponsors under a commission arrangement; (iii) narrowly

defines investment education, which will limit the assistance advisers can provide without triggering fiduciary obligations; (iv) does not allow advisers to receive third party compensation when advising plan participants on distribution options; (v) creates an inoperable Best Interest Contract Exemption which prohibits compensation such as commissions and 12b-1 fees unless advisers and firms comply with its complicated, confusing, and costly provisions, not to mention subjecting advisers and their firms to potential litigation; and (vi) limits investment options available to plan participants and IRA owners.

We urge the Department of Labor to either redraft or abandon this unworkable rule which has the ability to severely diminish access to competent, ethical advice merely due to the manner in which an adviser is compensated.