BETTER MARKETS

# Fact Sheet: Don't Fall for the Chamber of Commerce's Misleading Small Business Claims

The Chamber of Commerce has been hiding behind small businesses as they try to derail the Department of Labor's (DOL) best interest rule protecting Americans' retirement security. But don't fall for their misleading claims. The DOL's rule will ensure small business owners who provide their employees with Simplified Employee Pension Plans and SIMPLE IRAs receive the quality, conflict-free advice they expect and deserve. Let us set the record straight:

**The DOL has a mandate to enforce laws protecting retirement assets.** In 1974, the DOL was tasked with administering the Employee Retirement Income Security Act (ERISA), which required those who provide retirement advice to put their client's best interests first. But the current rules applying that standard have large loopholes and shortcomings, still on the books 40 years later, and which fail to adequately protect retirement savers' nest eggs from conflicts of interest. In its proposal, DOL is simply doing its job to ensure the rule accurately captures advice, given shifts in retirement plan trends and advisers. It has the legal authority to do so for IRAs, private-sector plans, and employer-provided plans, including those offered by small businesses.

**There is no evidence advisers will face increased liability or charge higher fees when acting as fiduciaries.** Although the Chamber claims small businesses will face increased costs, and pass those costs onto clients, it lacks evidence to support this assertion. There are many who act as fiduciaries today, who charge reasonable fees, and who have not seen a windfall of litigation. As a matter of fact, if firms mitigate conflicts and operate under a best interest standard, they should see liability risks and costs decline.

**The DOL rule supports existing business models, and small businesses will be able to choose the approach they prefer.** The proposed rule supports a range of business models, including both fee-based and commission-based models. Further, although the Chamber claims advisers to small business clients may exit the marketplace, this ignores the large number of fiduciaries ready and willing to provide high-quality, low-cost advice to small businesses and ensure those clients get best interest advice.

**Small business clients can receive general information about investing retirement assets through the Education Carve-Out.** The rule clearly distinguishes between advice subject to a fiduciary duty and investor education, including for small business clients. General information, regardless of the form of information or materials provided, falls under education and is not subject to a fiduciary duty. Guidance becomes advice when the information provided includes a specific investment recommendation that an investor may act upon.

***Bottom Line:*** Despite the repackaged spin and scare tactics from Wall Street allies trying to derail the DOL's best interest rule, the sky will not fall if brokers and others offering retirement advice have to act in their clients' best interests. If any brokers and insurance agents are unwilling to do so, they'll be replaced by the many advisers who are already operating under the best interest standard. It's time to end conflicts of interest that are costing Americans — including more than 9 million households enrolled in IRAs offered by small businesses — more than $17 billion every year by enacting this rule and giving all workers the unbiased retirement advice they expect and deserve.

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