I want to thank the entire committee for giving me the opportunity to speak with you this afternoon. As mentioned, I am Scott Stolz, Senior Vice President for Private Client Group Investment Products at Raymond James. On behalf of Raymond James and its 6,500 advisors and 10,000 employees that work hard every day to take care of the financial needs of our 1 million clients, I want to express my appreciation for giving me the opportunity to share our views with you today. I also want to thank the Department for informally meeting with us a few weeks ago here in D.C. The dialogue has left us hopeful that we can work together to achieve the common goal of improving the state of retirement readiness within our country. From our home base in St. Petersburg, Florida, Raymond James has grown to a national firm based mainly on a retail business model that serves individual investors. Our firm's core principle is Service First. We believe that if we take care of the client, everything else will take care of itself. This emphasis on taking care of the client, combined with our focus on long term results rather than the next quarterly earnings cycle, has helped us achieve 110 consecutive quarters of profitability – a string that I'm proud to say was not broken during the financial crises.   It is with this in mind, that I want to say first and foremost that we understand the impassioned and serious debate that surrounds this issue.

Most of those in favor of this proposal want to frame the debate solely on whether or not a financial advisor should put their client's best interest before their own. After all, who could possibly argue with that? As an example, a recent DOL e-mail to federal employees asking them to support the proposal stated the following:

"When you go to a doctor, you expect that they will treat you in your best interest. When you hire an attorney, you pay for them to represent your best interest.

Shouldn't the same be true for financial advisers who manage our hard-earned savings?"

Similarly, the AARP petition that garnered 31,000 signatures reduced the issue down to a mere 189 words. We would argue, however that this debate is not about whether advisors should be required to put their clients' best interests first. We wholeheartedly agree with that – as will, I'm sure, almost every witness the DOL will hear from this week. Rather the debate is really about the road we take to get there. Once one fully understands the 600 page proposal that the Department has put forth to achieve this mutually agreed upon goal, the only possible conclusion is that the rule as written is overly complex, would be incredibly expensive to implement, and would expose the hundreds of thousands of trusted and well meaning financial advisors to unfair legal liability.

By opposing this proposal as written, we fully understand that some will argue that we are not interested in putting our client's interests first. This conclusion, however, could not be further from the truth. Two decades before the DOL first proposed a revised fiduciary standard, we developed a Client's Bill of Rights that is given to every client when they become a customer of the firm. Amongst these 10 rights are the following:

- You have the right to expect financial and investment recommendations based solely upon your unique needs and goals, consistent with the objective of enhancing your financial well-being.

- You have the right to reasonable investment alternatives selected based on your individual objectives and presented with full disclosure of risks and benefits.
- You have the right to know all costs and commissions associated with an investment, as well as fees our firm charges for services.

I think anyone would agree that our advisors and our associates could not live up to this standard if we did not put our clients' interests first each and every day. We provided the Department with this document at our recent meeting and suggested that such a document could be used by others as a guide to the fiduciary "North Star" that the Department seeks.

On more than one occasion, Secretary Perez has cited the case of the Toffels as an example of why this rule is needed. Its been stated that the Toffels' had accumulated much of their life savings in various Vanguard mutual funds. Their trusted bank recommended that they cash out the mutual funds and use $650,000 of the proceeds to purchase a "very complex" variable annuity. The annuity cost them 4% per year and carried an additional 7% charge if they had to access their money in the first year of the contract – a charge that would disappear in 4-7 years.   As best as I can tell, even those who oppose the DOL rule have expressed dismay at a recommendation that put the Toffels into such an expensive and potentially illiquid investment. However, if you add a few more facts to this case, that conclusion is not quite so clear. According to a New York Times article on this case,[1] the Toffels told the bank that they needed an investment that provided a lifetime income. A variable annuity that cost 4% per year would have come with a lifetime income benefit that paid a specific amount of income for life, even if the stock market caused the Toffels' account value to fall – a possibility that is still very much on the minds of all retirees. In addition, that variable annuity would have come with a guaranteed death benefit that would guarantee that Mrs. Toffel would receive much, if not all of the original $650,000 investment upon Mr. Toffel's death – again, even if markets had caused their account value to fall in value. The Vanguard mutual funds – while a much cheaper solution – would not have provided either of these guarantees.

Unfortunately, the Toffels' situation changed when Mr. Toffel's health deteriorated. Not surprisingly, financial flexibility suddenly became more important than a secure, lifetime income. This unexpected change meant that remaining in the Vanguard Funds was likely the better choice.

But what if the stock market had experienced another major correction prior to Mr. Toffel's death? Mrs. Toffel would still be left with an investment that had a significantly depressed value. However, the variable annuity would have paid Mrs. Toffel the full $650,000 less any withdrawals received to date. Under this scenario, clearly the variable annuity would have been the better choice.

But let's change the facts once again. Let's assume that Mr. Toffel went on to live a long and healthy life. The annuity would guarantee an income for life despite market performance - the Vanguard Funds would not.

Please don't misunderstand. I'm not taking a position on the quality of the advice the Toffels received. I'm not even trying to take a position on the merits of variable annuities. My point is that when you are doing retirement planning for a specific individual, unless one knows when that individual will die and what the markets will do until then, no one can say with certainty what the best solution is. But here is what I do know. Just as a plaintiff's attorney would be quick to conclude that the 4% variable annuity was the wrong choice compared to the low cost Vanguard Fund, that same attorney would be equally quick to conclude that the financial advisor was offering conflicted advice if he or she did not recommend a solution that provided an income for life. Current securities laws and regulatory practices protect advisors from unwarranted "Monday morning quarterback" claims to some degree. Unfortunately, the Department's proposal will strip these protections and open a Pandora's Box of litigation based on investment outcomes that can never be predicted with certainty by even the best intentioned advisor.

By crafting the Best Interest Contract Exemption along with the rule, it is clear that the Department recognizes the importance of allowing clients to choose between various fee and commission structures to pay for the services they receive from financial professionals. A one size fits all pricing structure rarely, if ever, works in any industry; certainly our industry is no different. However, the fact that the BIC relies on an individual contract as a means for enforcement, is what places the advisor in the very legal quagmire I have described. And the potential liability grows exponentially if the advisor inadvertently doesn't check a box on one of the many disclosures and procedures outlined in the hundreds of pages of requirements – even if the advice given was sound.

The bottom line is that as a practical matter, advisors will not choose to utilize the BIC. Instead, advisors will choose to provide advice in a fee based account structure where clients pay either a flat or hourly fee, or a fee based on the dollar amount of the assets in their account. On the surface, that might sound like a good thing. However, for all of the reasons that you have already heard today, the end result will be one size pricing for all clients on all products. Smaller clients will be left with the choice of paying too much or not getting advice at all. Some of these clients will most certainly turn to one of the many Robo Advisors that have come on the scene. And that will be fine as long as that client needs little more than asset allocation services. But if they need advice with college savings, retirement planning, insurance needs, when to collect Social Security – or just plain hand holding when the next bear market arrives – they will be left to fend for themselves.

It is with this in mind, that we respectfully urge the Department to make the following changes to the existing proposal:

1. Eliminate the need for an individual contract. The Doctors and Lawyers that the Department continually quotes as the standard are not required to sign such a contract. Instead, require firms to give each client a Bill of Rights similar to the one used by Raymond James.
2. Reduce the amount of disclosures to those that really matter to clients who want to evaluate the advice they are receiving. In our opinion, those disclosures include:
    a. Full disclosure of the terms of the product and why it is being recommended at the time the recommendation is made.
    b. Disclosure of material product costs at the time of recommendation.

c. Full disclosure of material forms of compensation received by the financial institution and the advisor, along with information regarding how this compensation will impact returns at the time of the recommendation.
d. Regular updates on the performance of the individual product, net of fees.

3. And finally, we would urge dropping the existing wholesale product exclusions. A best interest standard will ensure that products are recommended appropriately to clients.

In summation, we thank the Department of Labor again for its efforts and consideration. Raymond James is happy to continue to work with the Department to achieve a final rule that helps investors make better financial decisions without creating an unnecessary and expensive burden on advisors that work hard every day to provide financial independence to their many clients. Thank you and I would be more than happy to entertain any questions you may have.

[1] "Before the Advice, Check Out the Adviser", by Tara Siegel Bernard, New York Times, Oct. 10, 2014