

# PUBLIC SUBMISSION

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**Docket:** EBSA-2010-0050

Definition of the Term ‘Fiduciary’; Conflict of Interest Rule—Retirement Investment Advice

**Comment On:** EBSA-2010-0050-3491

Definition of Term Fiduciary; Conflict of Interest Rule-Retirement Investment

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## General Comment

As the owner of an annuity wholesaler, I wish to support the 60 day delay of the applicability date. While I support the intentions of the Fiduciary Rule, I am very concerned that the likelihood of class action lawsuit will directly and adversely impact the industry, including investors.

As we have prepared for the rule and observed other industry participants' preparations, we have seen the plans to pass on the considerable costs of compliance to the end consumer. The biggest of these costs is the potential for class action lawsuits. Even the most well intentioned, compliant and prepared seller of annuities could be caught up in a class action lawsuit which may likely be cheaper to settle than to litigate.

We have seen plans by different sellers to actually increase the commissions required in order to comply and undertake the unknown litigation risk. These increased costs are an unintended consequence of the rule, as written. This especially since, given the grave costs of defense, have encouraged financial institutions to take the most conservative approach to compliance.

Also, market forces are working to reduce costs to the investor. We have seen in the annuity market that commissions, both retail and wholesale, have been coming down as the products become more mainstream and sold more by traditional financial institutions, as defined in the rule. State insurance departments have been shortening surrender charges which is, in effect, a reduced fee. (Although, with fixed annuities, since they are based on fixed interest securities which have higher interest rates for longer maturities, the insurer can fund greater consumer benefits with longer surrender charges.)

As such, while I support the fiduciary standard, disclosure and other aspects of the rule, I endorse the delay proposed and encourage modifications to the rule to reduce the cost to the industry and ultimately the investor.