

PUBLIC SUBMISSION

Received: March 14, 2017
Status: Pending_Post
Tracking No. 1k1-8v98-qbq9
Comments Due: March 17, 2017
Submission Type: Web

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

Document: EBSA-2010-0050-DRAFT-14277

Comment on FR Doc # 2017-04096

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General Comment

The proposed delay of the Conflict of Interest Rule ("Rule) and its accompanying Prohibited Transaction Exemptions is neither necessary nor in the public interest. The Rule was properly proposed, re-proposed, and re-proposed again over the period of 6 years. A great deal of analysis and consideration was put into the final version of the Rule. The industry had twelve (12) months to prepare for the implementation of the Rule with an additional eight (8) months of transition time included in the Rule. The industry has lost every court action initiated since the Rule's effective date.

To delay now, with less than four (4) weeks remaining, is a gross misuse of authority. This proposed delay appears engineered to circumvent the notice and comment period requirements of the Administrative Procedures Act 5 USC 553(b) and the guidance published regarding that Act at https://www.federalregister.gov/uploads/2011/01/the_rulemaking_process.pdf. Likewise, as the OMB has determined the proposal is economically significant, any waiver of the sixty (60) day effective period required under 5 USC 553(d) and Executive Order 12866 is also a gross abuse of authority. There is no evidence to indicate that requiring a fiduciary standard of care by those giving covered recommendations to retirement investors will negatively impact choices or options. If the market economy has taught us anything it is that where there is opportunity there will be those willing to step into the market to fill any void.

We have a properly promulgated final regulation. It was effective last June. The industry has had plenty of time to prepare for its implementation. All this delay represents is an effort by those

people who hold themselves out as "advisors" (but who are actually just "salespeople") to continue to benefit by putting their own interests above those of the client.

If the financial sales industry had been concerned with clients this Rule wouldn't be necessary. But instead, people driven by transactions and commissions are allowed to pre-textually sell clients products/services they don't need or aren't in their client's best interests. Of course that all occurs after gaining their client's faith and trust through using titles like "advisor", "financial advisor", "trusted advisor" and "financial representative".

I am under no illusions that the Rule is perfect. I know it isn't. But any changes to the Rule should take place through a concerted effort just like the current Rule did. Let the Rule be implemented and work to improve the provisions through a transparent and thoughtful process. Don't abandon protections for clients in the name of the salesperson and use the excuse that the Rule isn't perfect as written so it must be delayed.