

# 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

Dear Acting Secretary Hugler,

I am a veteran financial advisor for a major financial planning company and am writing on the proposed Fiduciary Rule.

There is nothing wrong morally with my industry. There has not been anything near the volume of incidents reported anywhere over the long-term that the compensation arrangements in my field are so unfair and/or immoral to require further Government regulation. My industry is already highly regulated at both the Federal and state levels. Adding another layer would be excessive and counterproductive. There is absolutely no compelling evidence that the financial advisory business

in the main is acting against its clients' best interests.

I am all for sensible regulations. If anything, the Rule should focus more on transparency than fiduciary elements. It should, at most, require that all fees (ALL!) be perfectly transparent not in prospectuses, which nobody reads anyway, but in the at-time-of-sale documents. Clients should be given full information on all costs. People are intelligent. They can make good decisions when presented with all relevant data. I see it done all the time. The Fiduciary Rule, as presently written, will dramatically limit the number of options I will provide clients. It will needlessly turn my profession from one that creatively addresses clients' financial challenges into a mindless cookie-cutter one, ultimately attracting practitioners far less credentialed and far less broad-minded. The dynamics of the profession would have been compromised so much to make it a relatively (relative to its former iteration) boring career enterprise.

The Rule will force me to migrate toward only affluent clients and prospects; the people who least need my help. For over 28 years my role has been to help migrate people from somewhere below affluence into affluence. Think of how many millions of people (hundreds of millions) over the next 10 years who will be underserved financially; the millions of people who, because the industry was seismically disrupted, will not have a secure retirement, or college educated children, or peaceful and secure widowhoods, or the fortune to have financial stress be a non-issue-- all because they were ignored. A sad state of affairs indeed.

There is nothing wrong with variable up-front commissions, provided that the variability among products is fully disclosed. Among other things, the Rule will have the unintended consequence of driving billions of dollars away from one-time commission charges to perpetual annual advisory charges, the latter, ironically, being the larger source of investor fees over the long-run. Both means of charging are appropriate in certain conditions. The Fiduciary Rule will blindly skew the industry toward annual advisory charges, which makes no sense for buy-and-hold investors.

Please take the time to consider these issues. Revise or repeal the Rule as you see fit to provide the public with the broadest range of financial products and services.

Respectfully,

Terrence K. Nichols