

From: Matt Dicken
Sent: Wednesday, April 05, 2017 2:26 PM
To: FiduciaryRuleExamination - EBSA
Subject: RIN 1210-AB79

To Whom It May Concern:

Thank you for the opportunity to comment on the items listed in President Trump's February 3, 2017 memorandum to the DOL. I am writing as the Founder and CEO of Strategic Wealth Designers (SWD). We are a financial planning firm that specializes in working with those that are already retired or soon to be retired. We currently employ 16 individuals. Three financial advisors supported by 13 staff members. In my 20+ year career we have assisted over 2,000 clients with their retirement plans, goals and dreams. Early in my career I worked for a large brokerage firm who was held to a suitability standard. When I founded my company we decided that a Fiduciary standard was going to be not only better for our clients but also for our firm so we became a Registered Investment Advisor (RIA) firm who acts in the best interest of our clients. Today are already Fiduciaries when working with our clients and already regulated as such by the Securities and Exchange Commission as well as our state Department of Financial Institutions and Department of Insurance. Depending on our clients' needs and desires we may recommend and assist our clients with a variety of investments options including; stocks, bonds, ETF's and annuities. We do not use a cookie cutter approach nor are we motivated by what level of compensation we may receive from what we recommend.

In the short time that the DOL Fiduciary Rule has been pending applicability investors have already been harmed in some situations due to a reduction in investment access. Most notably Merrill Lynch (among others) eliminated as an option for their clients to work with someone on a commission basis. At SWD we do not typically charge clients commission for trades in their IRA's, I don't happen to like the way Merrill Lynch invests retirees' money in the stock market but that is their clients' choice. Or at least it used to be until the DOL made it unappealing to a stock brokerage firm to offer that type of account. In my opinion it should be left up to the individual investor if they want to pay commissions or fees on their investment account but the DOL Fiduciary Rule, either intentionally or unintentionally, is steering those decision towards fee based accounts.

The so-called PTE's, including the BIC, in most cases are unworkable due to their restrictive nature and threat of lawsuit for earning a commission as opposed to the more costly option of ongoing fees. A client will not want to enter into nor does an advisor really want to discuss a Prohibited Transaction Exception even if it truly is what is best for the client. The name alone sounds like you are doing something wrong.

Being a firm that helps clients with whatever is in their best interest we sometimes will recommend managed money accounts and sometimes we will recommend annuities. Using the PTE's on the managed money side is fairly easy and straightforward from what we are currently doing, however on the annuity side the DOL Fiduciary Rule will cause massive disruptions in the industry that will negatively impact investors. As an RIA we are a financial institution that is allowed to enter into a BIC with the client on annuity investment. However the carriers do not like this scenario and have asked advisors like myself to work with an Insurance Marketing Organization (IMO) and have them sign the BIC because typically IMO's are larger and more financially sound than individual RIA's. The DOL has proposed rules on which IMO's can actually sign the BIC that are extremely restrictive (the DOL has proposed sales quotas to qualify as an IMO that can sign the BIC which contradicts the spirit of the rule itself) but let's assume

for a moment that my RIA happens to currently have a relationship with one of the few who qualify. When I meet with a client if annuity is what is best for them I have to have the client enter into a BIC with a company, the IMO, who doesn't actually hold their money, who they have probably never heard of, who I don't work for and who has no ownership in my firm, the RIA. The clients know me and my RIA, they know the carrier after we have discussed their options and their contract in detail but now I will be required to enter a third company into the picture that does nothing other than sign the BIC which states if the client is ever unhappy with me they sue the IMO? It is a confusing mess that will lead to increased cost and fewer available options to retirees.

The way the rule is currently written it will increase litigation costs significantly and that is a cost that more likely will be passed on to retirees in the form of higher costs and/or reduced services. An example of reduced services could be having to contact a call center for service rather than meeting with an actual person to help you with a service request. It is rumored that there are Venture Capital firms investing in new attorney firms that are being created with the sole purpose of suing firms and advisors that are giving advice to consumers about their IRA's/401k's etc. Any responsible person knows that if you are big enough and successful enough, even if you don't do anything wrong, you can find yourself subject to a class action lawsuit. The attorneys typically are hoping for a quick settlement and that creates a situation where even if you win the suit, you lose due to the costs, stress, bad publicity and disruption to your business. We are preparing a legal defense fund just in case we get sued as a result of the DOL Fiduciary Rule. Not because we are fearful that we have or will do something wrong, but because we will be giving advice to IRA/401k participants we will be a target. This threat has led some advisor to abandon IRA/401k participants completely moving forward

As a result of the DOL Fiduciary Rule retirees and pre-retirees will have less advisors to work with who have fewer investment options to choose from. At a time when baby boomers are looking to retire government regulations are set to make their decisions more difficult and restrictive. If someone wants to work with a Fiduciary or not currently they have that choice. Very soon that choice is scheduled to be made for them by the government, and that takes away freedom and liberty when they might need and want it the most.

It would be better for the DOL Fiduciary Rule to be repealed and allow the Securities and Exchange Commission (SEC) to move forward with a rule that will require advisors to act in their clients' best interest whether they are working with their qualified or non-qualified dollars. Having the DOL take the lead on this issue will cause confusion. Investors will not realize that though the advisor is required to act in their best interest on their 401k rollover, they are not required to act in their client's best interest when it comes to the money they currently have invested in the bank. That doesn't make sense and could lead to investors being taken advantage of. An SEC Fiduciary rule will eliminate the need for the IRS to be involved with enforcement and penalties when an advisor does not follow the rules like the DOL Fiduciary Rule currently requires.

Sincerely,
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