

From: DAVID E ORTMAN
Sent: Thursday, April 13, 2017 3:15 AM
To: FiduciaryRuleExamination - EBSA
Subject: RIN 1210-AB79

TO: Office of Regulations and Interpretations, Employee Benefits Security Administration

RE: Definition of the Term "Fiduciary"; Proposed rule; extension of applicability date

I have reviewed the EBSA Federal Register Notice (82 FR 12319, March 2, 2017) regarding the definition of the term "fiduciary."

This notice states, "The Department is proposing to delay the applicability date of the final rule and PTEs [prohibited transaction exemptions] for 60 days." This is virtually the only readable sentence in the notice. The rest appears to be off the readability scale. For example:

"Relative to the actual impact of the proposed delay on retirement investors, which is unknown, this illustration is uncertain and incomplete. The illustration is uncertain because it assumes that the final rule and exemptions would entirely eliminate the negative effect of load-sharing on mutual fund selection, and that the proposed delay would leave that negative effect undiminished for an additional 60 days. If some of that negative effect would remain under the final rule, and/or if market changes in anticipation of the final rule have already diminished that negative effect, then the impact of the proposed delay would be smaller than illustrated here. The illustration is incomplete because it represents only one negative effect (poor mutual fund selection) of one source of conflict (load sharing), in one market segment (IRA investments in front-load mutual funds). Not included are additional potential negative effects of the proposed delay that would be associated with other sources of potential conflicts, such as revenue sharing, or mark-ups in principal transactions, other effects of conflicts such as excessive or poorly timed trading, and other market segments susceptible to conflicts such as annuity sales to IRA investors and advice rendered to ERISA-covered plan participants or sponsors."

Indication of the number of years of formal education that a person requires in order to easily understand the text on the first reading

Gunning Fox Index: 25.30

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| <i>Approximate representation of the U.S. grade level needed to comprehend the text :</i> | |
| Coleman Liau index : | 15.20 |
| Flesch Kincaid Grade level : | 22.10 |
| ARI (Automated Readability Index) : | 24.25 |
| SMOG : | 21.00 |

If the idea of treating those who provide investment advice or recommendations for a fee or other compensation as fiduciaries is too scary for the EBSA, perhaps you could simply require

that those that provide investment advice or recommendations for a fee or other compensation to provide investors with the following notice: "I am not a fiduciary. This means that I do not have your best financial interests at heart, but instead, will seek to maximize profits for the corporation I work for without regard for your particular situation, age, plans, hopes, or dreams, just as I have in the past. Except now I need to tell you up front."