From: Gary Domke
Sent: Friday, April 07, 2017 3:49 PM
To: EBSA, E-ORI - EBSA
Cc: Matthew Bahrenburg
Subject: RIN 1210-AB79

TO: US Department of Labor

Sirs, on behalf of the clients I serve, I hope to add some of my perspective to the Department of Labor for consideration as it conducts its investigation of the Investment Advice Fiduciary Rule and the effects of that rule on the investment industry and on retirement investors.

I have been a professional in the investment business since August of 1970. My clients are primarily middle-America people and families. For many of those clients, I've been the family's investment professional for two, three and now for a few fourth generations. I'm an independent associate of an independent broker/dealer (cfd Investments) which is not owned or controlled by a major insurance company or banking organization, and also does not create nor offer any proprietary products.

Through my firm, I'm able to offer a wide array of products and services and I have the flexibility to suggest only the products and services that I believe are in the best interests of my clients. This has always been my goal. My history of working toward that goal is reflected in the fact that my clients have referred me to their parents, their children, their grandchildren, their friends and business associates. I take great pride in the scope and duration of my client relationships and view those as a testament to my success at achieving that goal. I've always acted to the best interest of my clients and will always continue to do so.

I do not believe it is possible to create a fair and uniform standard designed to achieve the best interests of clients. Each client is different, has different needs, desires, social circumstances and a myriad of other factors that make them unique. A "Uniform Standard" for fairness is inherently a ridiculous concept – all clients are not the same, do not have the same needs and what would be fair and proper for one will not be fair and proper for all. I believe that the current Investment Advice Fiduciary Rule would force me, at risk of legal action, to offer "Uniform" advice which would be a great disservice to my clients.

If implemented as currently written, the investing public would suffer massive harm from the new proposed regulation. The quality of "Uniform" advise or products or services could not possibly be tailored to fit the diverse needs and wants of the American people.

The current proposal would also impose a massive increase in the cost of investment services for the American People. My firm and I would have to devote new resources, divert our efforts away from serving our clients in our best judgement as to what they best could do to achieve their goals in order to implement the "Standards" to be established. Plaintiff's bar would prosper at the expense of the investing public and my industry. Nuisance lawsuits would proliferate – **the Fiduciary responsibility is nowhere codified in rigid explicitly** and settlement of nuisance lawsuits would frequently be cheaper than litigation, regardless of the merit of the claim. Our charges to our clients would be forced to increase to cover the administrative and litigation costs.

No entity, individual, regulatory authority or industry association can possibly create a uniform standard that meets the needs of all investors. The Investment Advice Fiduciary Rule, as

currently written, would cause an increase in litigation, and an increase in the prices that investors and retirees must pay to gain access to retirement services. The costs in the financial services industry will go up significantly as a result of the Rule, and the creation of the private right of action, through a class-action structure, will become a significant part of that increased cost. When the costs go up in industry, those increased costs will need to be paid, and that will be accomplished through higher fees charged to retirement investors. That is simply an economic reality. The current SEC Chairman identified that the Investment Advice Fiduciary Rule is not about protecting investors, but instead is "about enabling trial lawyers to increase profits". The creation of a new private right of action is all about that. It will not reduce fees, but instead will increase therm.

Civil litigation as a regulatory enforcement mechanism is inherently flawed. It empowers trial attorneys, which are often more interested in their own revenues than any other single factor, to be developing, through litigated decisions, public policy. Again, their concern is not for the industry, or to safeguard the best interests of an individual client, or even a class of clients, but instead, they will threaten litigation any time that they think there will be the potential for a significant payout at the end of the day. When the enforcement mechanism is through private litigation, however, the courts, which are not experts in the labor regulations or the financial services industry, are placed in the position to make policy, one case at a time, and this runs the very significant risk that the public policy at the end of the day would appear very different from the policy established by the regulator. This creates less certainty in the industry, and creates more costs, much spent in litigation costs. I think it's a certainty that the Rule would increase litigation, and possibly create a plethora of nuisance suits, which firms may decide to settle, not because they believe that they are in the wrong, but because there is too much cost involved in defending the suits and because there is uncertainty as to how the public policy will be interpreted by an individual court.

Not only would my industry be disrupted but the higher costs must ultimately be paid for through fees or commissions charged to customers.

SEC Chairman Michael Piwowar recently expressed his view of the Rule, by stating "I have a very nuanced view of the DOL fiduciary duty rule: I think it is a terrible, horrible, no-good, very bad rule. For me that rule was never ever about investor protection. To me, that rule, it was about one thing and it was about enabling trial lawyers to increase profits." I heartily agree with the SEC Chairman!

I thank you for the opportunity to add my voice of caution to your deliberations as you conduct the investigation that was requested by Presidential Memorandum. If you need any further information or assistance, please don't hesitate to contact me at (636) 789-2127, or by email at gary.domke@cfdinvestments.com.

Sincerely,

Gary E. Domke