Office of the Treasurer & Tax Collector
City and County of San Francisco

José Cisneros, Treasurer

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Office of Regulations and Interpretations
Office of Exemption Determinations
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Proposed rulemaking re: definition of the term "Fiduciary," RIN 1210-AB79

Ladies and Gentlemen,

I am writing to express my strong support for the Department of Labor's (DOL's) conflict of interest rule. This rule strengthens protections for retirement savers by requiring financial advisers and their firms to provide retirement investment advice that is in their clients' best interests. Rescinding, or even delaying implementation of these new protections would allow financial advisers and their firms to continue to engage in harmful practices that threaten the retirement security of their clients.

The proposed rule will help to eliminate harmful practices that have become deeply embedded in the business models of sales-based financial firms. It does this by closing loopholes in the current regulations that have allowed brokers and insurance agents to masquerade as objective advisors while acting as self-interested salespeople, by requiring all financial professionals to make a legally binding commitment to set aside their own interests and seek to do what is best for the customer, and by requiring firms to eliminate compensation and personnel practices that conflict with that goal.

As San Francisco's Treasurer, I believe that my responsibility to safeguard our city's money extends to the financial wellbeing of our residents, and I have worked hard to develop programs and policies that help build financial security for low-income San Franciscans. We are now facing a looming retirement insecurity crisis in this state, and in our country, and I believe we must prioritize strong protections for workers and retirees who turn to financial professionals for advice about their retirement investments.

Below are several key benefits of the conflict of interest rule for retirement savers:

1. **Retirement savers will know that whomever they turn to for advice has to act in their best interests.** DOL is correct to require financial professionals who offer retirement investment advice to abide by a fiduciary standard; without this rule, brokers may steer customers into funds that are not profitable for them, eroding their retirement savings through high costs and substandard performance.

2. **Workers who change jobs won't be lured into rolling their money out of their pension or 401(k) plan and into a higher cost IRA.** Without this rule and its advice about rollovers in the definition of fiduciary investment advice, financial firms can encourage workers to roll over their money even when they'd be better off staying put, and recommend investments that are worse for investors than the investments they own through an existing 401(k).

3. **Employees of small businesses should see better investment options in their company retirement plans.** Small business owners who want to offer retirement benefits to their employees can find the decisions involved in setting up a retirement plan daunting. Lacking financial expertise themselves, they rely heavily on the advice they get from the plan consultant, little knowing that what they are getting isn't really advice, but is actually a sales pitch dressed up as advice. The rule would fix this problem, providing the same protections to small plan sponsors that it does to individual investors, requiring those who provide investment advice to these plans to either operate without conflicts or comply with the requirements of the best interest contract exemption.

4. **Retirement savers will be able to trust their advisors, who will have far fewer incentives to offer advice that is not in their customers' best interests.** Financial firms routinely pay and reward their advisors in ways that encourage advice that is not in the customer's best interests, and a fiduciary standard requires firms to eliminate a wide range of practices encouraging advisors to offer recommendations that are not in the customer's best interest.

5. **Retirement savers will be put into the type of account that is best for them, and not just the account that is more profitable for the financial firm.** The DOL rule makes clear that firms must recommend the type of account that is best for the investor. If a firm moved a customer to a higher cost account, the firm would have to be able to show why that account is better for the investor, what additional services they are providing to justify the increased costs, and why those services are appropriate for the investor.

6. **Market forces will work to benefit, rather than harm, investors.** By requiring all financial professionals to act in the best interests of their customers, and by requiring financial firms to eliminate incentives that conflict with that goal, the DOL rule changes the terms on which investment product sponsors will have to compete for sales. Retirement savers will benefit directly from lower costs, reduced complexity, and improved performance across all types of investments

As a matter of both principle and policy, workers and retirees who struggle to afford a secure and independent retirement deserve advice they can trust. The new DOL conflict of interest rule helps to deliver that reform by holding financial advisors accountable for acting like the advisors they claim to be. I ask that you uphold these common sense rules and implement without delay.

Respectfully,

José Cisneros
Treasurer, City and County of San Francisco

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