To: EBSA, E-ORI - EBSA
Subject: RIN 1210-AB79

April, 2017
The Office of Regulations and Interpretations
Employee Benefit Security Administration
Attn: RIN 1210-AB79 Proposed Definition of Fiduciary Regulation
Room N-5655
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Re: RIN 1210-AB79 – Comment on economic and legal analysis of the Fiduciary Rule

Ladies and Gentlemen:

I am writing regarding the proposed legal and economic analysis of the Department of Labor Fiduciary Rule. I strongly support a longer delay to either constructively fix the rule or totally repeal the rule and ask the SEC to proceed with its plans for a uniform fiduciary standard. I hope my comments add perspective on the impact this regulation has had and would have on the individuals and families I serve in investing for their future.

As a financial advisor, I have always acted in the best interest of my clients, and I agree with the idea of a comprehensive, uniform code of ethics for registered representatives, investment advisor representatives, registered investment advisor firms and broker-dealers. Over the past year, I've educated myself on the Department's Fiduciary Rule, both its intent and its specific requirements. I've discussed with my clients the changes I would need to make to the services I provide them in order to comply with the rule. These discussions have brought to the forefront several specifics of the rule that I believe are at odds with its intent:

- I believe the rule adds confusion for advisors and consumers on the protections and ethical standards for investment accounts, because those standards are based on the consumer's investment goal and the account vehicle used to reach that goal. Accounts that the consumer plans to use for tax-qualified retirement investing would have a set of ethical standards and requirements that differ from a taxable retirement account or an account the consumer plans to use to purchase a second home, pay for a child or grandchild's college expenses, cover future medical expenses or provide a legacy for heirs. This creates confusion for the consumer and adds costs, as the advisor must manager and administer those accounts under different sets of rules. In addition, these accounts are already held to the standards and regulations required by the Securities & Exchange Commission (SEC) and the Financial Regulatory Authority (FINRA).
- The SEC and FINRA have in place processes for consumers to file complaints against advisors and firms and for sanctions to be levied against advisors and firms found to have violated regulations and ethical standards. Lacking that same authority over retirement investment accounts, the Department has opened the door to plaintiffs' attorneys to seek class actions against advisors and firms – circumventing the processes already used by the SEC and FINRA, further confusing consumers and driving up costs.
- The level compensation requirement by product type will severely limit product choice for investors, in some cases requiring me to offer an investment that will be more costly to my client while offering fewer features and benefits. Mutual fund exchanges and rights of accumulation are two features that consumers value but that are typically not available in the T shares the fund

companies have created to levelize compensation. In addition, the so-called "clean shares" remove the costs paid to the custodians – who will ultimately increase their costs to make up the difference – and will force firms to build sophisticated pricing and compensation systems that duplicate the systems already existing within each fund complex. Consumers should have the right to determine the price point and features that best suit their investment needs.

- The rule's requirements for providing consumers investment products for a commission have led several broker-dealers to announce that they will no longer allow commissionable products in retirement accounts. Investors, therefore, would be forced to pay a fee, which for many small investors, particularly those who do not engage in active trading or 529 plan customers, may not be in the client's best interest. Clients should be able to decide how they want to do business with their financial advisor. Forced to choose between additional legal exposures on the commission side with regulation by class action lawyers and an advisory account that may not be in the client's best interest, many advisors will choose to stop working with smaller investors – the very people who most need advice on investing for their future.

With this additional review and analysis requested by President Trump, the Department of Labor has the opportunity to reconsider not only the specifics of the rule and its requirements but the validity of the Department imposing an additional layer of regulation and ethical interpretation on an already highly regulated industry. The SEC had itself been working on expanding its fiduciary definition to commission-based products and registered representatives prior to the Department publicizing its version. It would be in the best interest of investors to repeal the Department's fiduciary rule and instead recommend and support the continuation of the SEC's review and implementation of a comprehensive and uniform fiduciary standard for the financial services industry. In addition, the Department should work with the SEC to regulate pricing directly at the mutual fund and insurance companies, rather than forcing the entire cost of regulation onto the firms that assist consumers by providing financial advice and making those products available to consumers.

Therefore, I urge you to undertake a full review and analysis of the Department of Labor Fiduciary Rule, as requested by the President, and explore a repeal or, at the least, revisions that truly serve investors' best interest by protecting their choice to receive professional investment counsel and how they compensate that professional.