

Cc: FiduciaryRuleExamination - EBSA

Subject: DOL Fiduciary Rule Review

To:

Re: Department of Labor Fiduciary Rule Review, RIN 1210-AB79

Dear Representative _____,

In my professional opinion, I believe that the Department of Labor's (DOL) rules changing the ERISA definition of fiduciary, currently scheduled to become applicable on April 10, 2017, will cause considerable damage to the retirement security of millions of Americans.

I have watched with concern as the DOL issued rules that I believe will dramatically reduce the availability of comprehensive, personalized retirement and investment education and advice for millions of low and middle-income savers and retirees. These concerns are founded on my practice as a licensed and registered financial professional with years of experience helping my clients plan for a comfortable and secure retirement.

The Department's objective, which I share, is to ensure that retirement plan participants, individual retirement account investors, and their families have ongoing access to high quality retirement savings products and advice delivered by professional financial and investment advisers in accordance with sound, ethical business practices. However, the practical consequence of the Rule will be to drive up the costs of providing advice and reduce the array of investment options made available due to the substantial redundant compliance requirements and heightened potential litigation risks.

My key concerns are:

1. An overly narrow investment education exception and withdrawal of the traditional seller's exemption. This will likely have a dramatic impact on Individuals with more modest account balances, including many younger investors who stand to benefit the most from receiving professional retirement and investment advice at an early age. This large group of individuals may very well be excluded entirely from receiving full-service investment advice when they most need it.
2. The rule adds another layer of regulation to advisors and firms in addition to the regulations developed by the FINRA, the SEC and state insurance and securities regulators and does so in a way that creates uncertainty and ambiguity in many areas.
3. Without the assistance of a trained financial professional, many working Americans will simply fail to plan and save for retirement on their own, and the financial projections previously developed by the DOL that showed significant savings as a result of this Rule will fail to materialize.

As you know, President Trump recently issued an Executive Order that highlighted some of the areas where, from my observations, I believe the rule will cause more harm than good:

- The Rule is likely to harm investors due to a reduction of retirement savers' access to certain retirement savings offerings, retirement product structures, retirement savings information, and financial advice; the impact of the rule has already resulted in firms throughout the industry limiting financial product options for their clients, and advisors are limiting the clients that they will serve.
- The Rule has already resulted in dislocations or disruptions within the retirement services industry that may adversely affect investors or retirees. Some firms are already forcing their retirement customers into fee-based accounts as a result of the Rule's disfavoring of commission-based investment products, which may be more costly over time and otherwise not appropriate for some investors.
- The DOL does not have a sustainable and predictable strategy for enforcing this rule. As a result, it will definitely cause an increase in litigation, since its primary enforcement mechanism is private litigation. This litigation will likely result in different interpretations from the courts of each various state in which an action is brought; they will neither be required to follow DOL guidance nor the current body of federal ERISA jurisprudence, because the DOL has provided a contract-based enforcement approach. This significant costs of litigation resulting from this approach will assuredly lead to an increase in the prices that investors and retirees must pay to gain access to retirement services.

Accordingly, I strongly believe the DOL should address the above concerns by revoking the Rule. From there, the DOL can best enhance protection for retirement savers by working with the Securities & Exchange Commission (SEC) and FINRA to harmonize the ERISA fiduciary standard with the existing, robust SEC investment advisory fiduciary standard and FINRA's just and equitable principles of law applicable to broker-dealers.

Thank you for your consideration.

Respectfully,

cc: Acting Secretary Ed Hugler
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210