

From: Melissa Meyer <mmeyer@dhtaxes.com>
Sent: Friday, July 07, 2017 10:39 AM
To: FiduciaryRuleExamination - EBSA
Subject: Request for Comment

My name is Melissa Marie Meyer. I am licensed to be both a fiduciary and a broker, and have been acting in the fiduciary role managing clients' assets for well over a decade. When the DOL Fiduciary Rule was announced I thought it would not affect myself or my clients. I was wrong.

Follows are my answers to your questions in order of the RFC.

1. No I do not believe a delay would harm either investors or investment professionals. I do not see any risk in a delay. The advantages to investors in a delay is an increased selection of products and services during the delay period, and, hopefully, less impact by "pay for play" on the side of the investment companies. Given the excessive regulatory compliance already created by the implementation of the DOL rule, it would probably allow smaller investment companies to continue working with lower overhead and be less likely to encourage a consolidation of companies to only the largest ones that can afford the regulatory burden.
2. My broker dealer has opted to begin implementation of the DOL rule as though it was pretty much already fully in force and for consistency, they applied it to ALL types of accounts, whether they were identified by the DOL rule or not (qualified and NON-qualified). They have required anyone not licensed as an IAR to become licensed as an IAR, which I'm certain has made a great deal of money for FINRA and the various training companies. The people that they have had licensed are ones who are "old school" brokers, and insurance agents who sell managed products. All the others who were licensed as fiduciaries were licensed that way in order to be fiduciaries and help their clients that way. As a result, there are a large number of people who are licensed now to be something that they are not experienced in or trained to be, even though they were very much so able to help their clients select investments and managed products in the past. This has placed an oversight burden on the broker dealer. I have had meetings with wholesalers of managed product companies – both mutual funds and annuity companies – where they have stated that this is the problem throughout the industry and most broker dealers are taking the path of reducing their products and services so that it is easier to oversee their brand-new inexperienced fiduciaries. Basically, they don't want anyone to be able to shoot themselves in the foot, so they have taken away options that an experienced fiduciary might have considered for their clients. The impact has been so large that I am looking to change to a broker dealer who does not limit their investors' choices. Those broker dealers are few and far between and only the largest ones are able to handle the regulatory burden and offer those choices to their fiduciaries. I didn't want to move to a larger broker dealer because they have a culture which is traditionally not in the clients' favor. It was the smaller ones that did. Now, the DOL rule is making everyone the same and I don't think any investors will benefit from this.
3. No. They are opting to protect themselves from clients because the DOL Rule is so clearly in favor of an investor, even if the investor is the one who ASKED for the investment in the first place. So, tell me, how is it that Joe can come up with the brilliant idea to invest in a product, and he asks his fiduciary for it, they discuss it, and the fiduciary sees his reasoning, documents it and then Joe goes to purchase the product, but because the DOL Rule, Joe can turn around and claim that the fiduciary did not act in his best interest? Please! If you are to act in your clients' shoes, and the clients' shoes just said "I want this because..." then the fiduciary has done his job through the discussion, disclosure and documentation that was ALREADY in place for fiduciaries before the DOL Rule. It is not that fiduciary's fault if Joe changes his mind.

4. The costs are tremendous. What used to take 24 – 48 hours to turnaround for review now takes over a week. Even simplistic things like investors wanting to get distributions from their accounts now require excessive documentation and review and have caused investors from being able to utilize their own funds as they need to. You have no idea how bad this is. Again, I have learned that all broker dealers are suffering the same issues. Unless they are a wirehouse and have a full staff of over a hundred lawyers and a top-down investment structure which limits their clients' choices already. (Read up on that class action suit in California against Edward Jones in the early 2000's where clients would walk into Edward Jones and over 90% of them received the same investments regardless of age, circumstances, risk tolerance, etc. This is the world that the DOL Rule is making investors move to. It's exactly the OPPOSITE of the intent.)
5. I vote to get rid of the rule in its entirety, but that is not going to happen. I think you should reduce or eliminate the regulatory burden completely. I think that the requirement for fiduciary licensing and a training regimen is something that SHOULD be required. It's like someone decided every single investor in the US was too stupid to pick out what they wanted to invest in. And then they decided that every single investor had the exact same investment requirements. You can't stuff everyone into a model and make it work. Some people who have a low risk tolerance will never meet their financial needs if they are stuck in a 70% fixed income, 30% equity strategy because there is not enough growth to ensure hedging inflation. Nor will they meet their income needs if they are not allowed to put funds into a product that guarantees their income but has to charge fees against the asset value in order to ensure the guarantee. Maybe you should require the managed products to be reviewed for over-feeing clients. In particular, those pesky indexed annuities with riders are rarely – and I really mean RARELY – in an investor's best interest. However, these are not regulated by the SEC/FINRA and they SHOULD be. That would stop a majority of the abuses in our industry.
6. I answered this in my answers above.
7. Right now, because of the DOL Fiduciary Rule, broker dealers are seeing less profitability on the investment side, so they are turning back to the mutual fund companies and asking them to share their profits – or else they won't carry their products. This is even affecting companies like Vanguard, which, while it does not have stellar performance over the long term (3 -10years), it has the lowest fees. The DOL Rule seems to imply that lower fees mean more to investors than solid performance. It's so wrong. Fees do not affect investments as much as you've placed emphasis here. So, let's say that I invested in the Vanguard S&P 500 Index fund for the past 10 years – I would have received a return of less than 7%. However, if I invested in a combination of stocks, bonds and mutual funds – some that have fees of nearly 4 times as much – I would have received a return of 12% - AFTER the investment advisor's cost to invest in it. So the DOL Rule is going to force everyone to invest in the average investments out there? Seriously! I don't understand this. My future will be to put everyone in a series of low-cost index funds because everything else is too expensive, so only the wealthiest people will have opportunities to make decent growth. It's like it was intended to make rich people richer and poor people poorer.
8. Believe it or not, a fee-based annuity might actually cost MORE than the current structure, depending on implementation of riders. If the government came out and said, look, you can only charge a maximum of 3½% annually including all of your riders in the cost of an annuity, and allow the current contingent deferred sales charge of 7 years (which is the cheapest for clients currently), then they would come up with a product that met that requirement.
9. We use advisory and institutional shares already. I think you should make institutional share class the standard.

10. I don't think it would add value
11. I would remove this.
12. I would remove this.
13. I could come up with a submission if I had more time. If you wish, please send an email requesting this and I would be happy to work on it for you. I consider it a privilege as a citizen to contribute.
14. Absolutely. Remove it. Again, if Joe comes in my office and says his brother told him to buy Apple Inc., and it fits into his large cap equity income needs, it should not need a book worth of disclosures.
15. HSAs are a special product requiring some tax knowledge. I think the DOL should produce a product standard for them and ask all broker dealers to have options available. Right now, most smaller broker dealers have little to none available for client selection because of their complexity.
16. I think they are grateful to the grandfather clause because to make changes to the older programs that were purchased and are in progress now could have negative impact on investors – such as application of penalties for early closure and replacement of the product, for example.
17. I think you should classify all annuities as securities and have the SEC/FINRA oversee them. They know how to regulate managed products .
18. My immediate response is to repeal the rule in its entirety. But then, I think that MOST of it should be repealed, and that the SEC/FINRA be given the opportunity to come up with a better regulatory view for qualified investments.

Please feel free to contact me if you have questions.

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Sent from [Mail](#) for Windows 10