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Request for Information on the Fiduciary Rule and Prohibited Transaction Exemptions

Comment On: EBSA-2017-0004-0001
Fiduciary Rule and Prohibited Transaction Exemptions; Request for Information

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General Comment

Should the final enactment of the rule be delayed? The obvious answer to this question is yes. The DOL Fiduciary Rule is a mess as is evidenced by our experience working with clients since its watered down roll out and by the incorrect questions being asked her.

In reality, this rule doesn't need to be delayed it needs to be scrapped. Let me give you some on the ground reality that you won't hear from the political zealots, you know those people who have never sat across from a couple and helped them with their retirement planning but think they know ALL about it.

Two weeks ago I met with a client who wanted to move a $30,000 IRA to a different investment provider. I didn't see a reason to do this but the client was adamant so we made the change. It took 11 days to finally get all the paperwork in place. 11 days. Given the number of hours I spent on this, it will take years for me to just break even. It also is telling me VERY loudly that I should not work with small dollar clients. YET, smaller dollar clients are often the ones who need the MOST advice and help.

Next week I go out to see a client to set up a new SIMPLE IRA plan in their small business. It is the right plan type for them. For 15+ years, FINRA has told us that A shares are the appropriate share class to recommend in almost any circumstance. Now, the DOL is essentially telling us to use C shares if we want to avoid a prohibited transaction in the future. So the DOL has put me in the position of having to choose which regulator's recommendations/guidance I wish to potentially violate. This also holds true for any new, non-rollover, non-transfer IRA.

So yes, the DOL Jan 1 timeframe should be delayed. The DOL has created a regulation that contradicts FINRA. The DOL has created a nightmare for consumers. They don't understand the pre-June 9th regulatory landscape. The DOL Fiduciary Rule turned a muddy picture into something completely indecipherable.

I've talked to a number of people and they all say the same thing...this rule is a mess. No one seems to know what to do because the way the rule is vague, contradictory to other rules and adds another and completely unnecessary level of regulations.

Yes, we should all look out for our clients best interest all the time. Not just on IRA rollovers and transfers. The DOL is OBVIOUSLY not the entity with the experience, knowledge and resources to tackle this challenge. Anyone who believes otherwise isn't paying attention.

This is job for the SEC or an SEC/FINRA collaboration.