

<Date>

Office of Exemption Determinations  
Employee Benefits Security Administration  
Attn: D-11933  
U.S. Department of Labor  
200 Constitution Ave. NW  
Washington, DC 20210

RE: RFI-DoL Fiduciary Rule Review

To Whom it may concern:

We are writing to you today in support of the President's executive order on the implementation of the rule regarding individual retirement account owners and an advisor's fiduciary duties. While we are certainly in agreement that advisors and firms should act in the best interest of their clients and their retirement accounts, we feel this is a very complex rule which will only add significant costs to firms and advisors. These costs will, in all likelihood, lead advisors and firms to restrict which clients they will provide retirement advice to, and limit the investment choices for these clients. This rule is directly in contrast to the very needs of many of these smaller investors.

Securities Management & Research, Inc. is an independent broker / dealer registered with FINRA and the SEC. We have approximately 280 independent contractor advisors in more than 40 states. We have been in business since 1964, (53 years), and currently have 85 highly skilled and well paid employees in our corporate office in Cedar Rapids, IA. Because our advisors are independent business people who run their own businesses, they too have staff to manage their office, meet with clients, complete paperwork and remain in compliance with the rules and regulations provided by the SEC, FINRA, and the state securities administrators. More research needs to be done on the rule as to the potentially devastating affects in terms of costs that will be incurred by our business and the inevitable costs that will be passed on to the IRA owner as well as the certain disruption of investment advice to smaller IRA investors.

Some points to consider:

- The costs that will be incurred to comply will most likely force our smaller firm to consolidate or close our doors.
  - Morningstar gave us a quote for their technology solution to assist with compliance with rule. Price tag was **\$1,014,540! Annually!** We don't have \$1,000,000 of net income annually. How would we pay for this? Other solutions gave us quotes in the several hundred thousand dollar range, again annually. We have already spent over \$300,000 in legal costs and staff hours trying to develop our compliance procedures. We won't survive.

- Retirement investors will have fewer investment options which will limit potential higher appreciation/growth opportunities.
  - Our advisors are already receiving calls from clients of Edward Jones and Raymond James advisors who have been told that they will no longer be able to keep their IRA at these firms because of certain investments in the accounts or due to the size of their account. This is exactly what FSI and others have been saying would happen and investors are being deprived of advice.
  
- No consensus on how to comply with the rule using the BIC.
  - We have engaged two ERISA law firms to guide us on compliance and to develop our Best Interest contract. We continue to receive conflicting advice on how to comply. If two ERISA law firms can't figure out the rule, how are we supposed to do it?
  
- Increased litigation.
  - Michael Wong, equity analyst for Morningstar stated that annual litigation costs will be \$70MM - \$150MM per year! This is the death nail for our industry as small businesses. Maybe Merrill Lynch can afford it, but we can't.
  - It would not be a stretch to assume that E&O insurance carriers will most likely exclude BICE claims from firm coverage under the policy, giving us no choice but to drop retirement accounts from our business model. These accounts are roughly 60% of our business. Again, we won't survive.
  
- We continue to struggle to find a BIC Officer.
  - Due to the "personal liability" thrust on the BIC officer, we can not find anyone willing to take that role. It would be nothing for Morgan Stanley and UBS to provide a corporate indemnification to its BIC officer, but Berthel Fisher & Company Financial Services, Inc. certainly would not have that same luxury. It is highly unlikely that thousands of firms our size would be able to provide it either, leaving a person with a severe risk of financial ruin for taking the job.

For these reasons and many more, this review and the very necessary changes or complete revision of this rule is both necessary and should be expedited. There are way more questions and costly, (both for investors and advisory firms), applications to the implementation of this rule and more care must be given to develop a good rule that works for all retirement investors and the advisors who work long and hard to help their clients meet their retirement goals.

Thank you in advance,

[Rick Murphy, President](#)  
[Securities Management & Research, Inc.](#)

