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Fiduciary Rule and Prohibited Transaction Exemptions; Request for Information

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Submitter Information

Name: Anonymous Anonymous

General Comment

Thank you for the opportunity to respond to the Request for Information.

5. and 6. There must be an adequate incentive to comply or many in the regulated community will prioritize other objectives over compliance with the Impartial Conduct Standards. The advantage of having the Department impose these requirements, as opposed to the SEC, is that it will cover insurance and annuities, the sale of which are largely unsupervised, in addition to securities.

An alternative approach to the BICE would be to require a Financial Institution to supervise all sales and to impose sanctions such as fines or the suspension or revocation of Financial Institution status on those entities that do not comply. Holding Financial Institutions accountable for the behavior of advisors is much more effective than attempting to hold individual advisors accountable. In addition, an independent compliance audit performed annually would serve to protect retirement investors much more effectively than a financial audit. A financial audit would do nothing for the protection of retirement investors other than insure there may be adequate funds available to pay retirement investors AFTER problems have occurred. The yearly compliance audit results could also provide the foundation for Department examinations of Financial Institutions.

The Impartial Conduct Standards must remain in place to protect retirement investors while the Department conducts its analysis. They provide protections for retirement investors and many Financial Institutions have already implemented changes. Maintaining the current requirements

provides a level of certainty to the regulated community. Keep in mind that the regulated community had consistently maintained (prior to June 9) that the Impartial Conduct Standards were acceptable and that they had already been following them prior to the Rule.

10. Model policies and procedures for the supervision of advisors make sense and should include the following:

Electronic surveillance reports to assist with trending and identifying actionable problems

Periodic office inspections of advisors

Approval of advertising

Approval of sales/recommendations

11. There is a significant lack of supervision of independent insurance agents.

14. These are impactful decisions that deserve the same merit and consideration as other investment recommendations and should be subject to fiduciary requirements especially since the majority of retirement investors retirement assets are within plans and IRAs.

17. Allowing insurance intermediaries to become Financial Institutions would create the opportunity for effective supervision of independent insurance agents. Insurance companies often have thousands of agents and little to no ability or desire to supervise their agents. Insurance intermediaries could fill the void and provide protections for retirement investors.