

PUBLIC SUBMISSION

As of: September 28, 2015
Received: September 23, 2015
Status: Pending_Post
Tracking No. 1jz-8lar-dgfv
Comments Due: September 24, 2015
Submission Type: Web

Docket: EBSA-2010-0050

Definition of the Term ‘Fiduciary’; Conflict of Interest Rule—Retirement Investment Advice; Notice of proposed rulemaking and withdrawal of previous proposed rule.

Comment On: EBSA-2010-0050-0204

Definition of the Term Fiduciary; Conflict of Interest Rule- Retirement Investment Advice

Document: EBSA-2010-0050-DRAFT-7348

Comment on FR Doc # 2015-08831

Submitter Information

Name: Corey Smith

General Comment

Here we are in yet another instance of unintended consequences in the pursuit of consumer protection. While an admiral goal to increase the scope of fiduciary duty to clients, adding IRA's to the scope of these provisions will have the opposite effect. Presently, we have two systems that ERISA has created. One is the captive employer based system that the employer chooses the plan administrator which in turn chooses the investment options. An employee in these plans cannot change administrators and is facing a dwindling number of investment options. When I started contributing to my company's 401K plan there were nearly 30 investment choices available some were good performing low fee funds, others were high fee funds. Over the last 15 years I've had my employer change administrators three different times. Each time the fund choices declined and the restrictions increased. If you take out the target date retirement funds we now have 8 choices and really they fall into 3 types cash, bonds, or large cap stocks. Essentially there are three choices and if I move out of one I can't return to it for 3 months. With returns barely keeping pace with inflation my retirement looks less that secure.

The second system is the IRA system including Self directed accounts. I can and do invest in these types of accounts. The amount of options I can pursue is limited only by self dealing and certain uses of loans. I can invest in real estate, business, stocks, options, currencies, precious metals, etc . These other types of assets help reduce my overall risk while improving returns. I'm not going to start a business or a hedge fund. I'm going to continue working until I retire. So I need the ability to invest in the vehicles that will do well if stocks and bonds have a few bad years. If this broadened definition of fiduciary changes to include IRA's, the resulting increases to the regulatory hurdles and potential cost of litigation will simply drive those that deal in low volume or low margin IRA transactions to stop working with them at all. Will the local real estate agent take the chance of running afoul of these rules to sell a rental home to investor using his IRA? Will a business person partner with someone using IRA funds? So, now workers like myself who have contributed 15% of their hard earned wages for decades to these plans, will have all these investment choices squashed by regulation and misplaced responsibility.