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September 15, 2017

The Honorable Alexander Acosta
Secretary of Labor
Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Dear Secretary Acosta:

I write to submit the attached document as a comment on the Department of Labor's ("the Department") recent proposal to further delay of partial applicability of the fiduciary rule from January 1, 2018 to July 1, 2019 (RIN 1210–AB82).[1] The document contains the transcript of a September 12, 2017 hearing of the U.S. Senate Committee on Banking, Housing, and Housing Affairs titled "Examining the Fintech Landscape." The hearing witnesses—experts on financial markets and consumer products—made several comments relevant to the Department's proposal. Specifically, their analysis of the availability of innovative financial products in the wake of the fiduciary rule and the rule's effect on the business environment for providers of retirement savings products and investment advice supports the conclusion that the rule has made investing retirement savings easier, cheaper, and safer for working Americans.

Sincerely,

Elizabeth Warren
U.S. Senator

[1] "Extension of Transition Period and Delay of Applicability Dates." 29 CFR Part 2550. Employee Benefits Security Administration. *Department of Labor* (Aug. 31, 2017). Online at: https://www.gpo.gov/fdsys/pkg/FR-2017-08-31/pdf/2017-18520.pdf.

Banking Committee Hearing

Sept. 12, 2017

Senator Warren: Thank you, Mr. Chairman. So we're here talking about innovative, new financial services companies. And in that context, I want to ask some questions about the data on the cost of financial advice.

So, Dr. Evans, you're the Director of the Financial Markets Group at the Government Accountability Office, and an expert on all things financial markets, and you look at a whole lot of the data in this area. Is it your sense that is now harder or easier for middle-income savers to access investment advice?

Dr. Evans: So I would say easier, and that's a qualitative assessment and is based on consensus because if you look at traditional wealth management, it takes 250,000 dollars to get in the game. Whereas the digital wealth platforms require no minimum or a small amount, say 500 dollars. And some of these are automated platforms that do things like automatically rebalance the portfolio which means lower fees. An example of these are Betterment and Wealthfront.

Sen Warren: Good, getting easier. And Mr. Turner, you're a research analyst at S&P Global Market Intelligence. You're also an expert on all things financial markets. In your expert opinion, is financial advice getting more expensive or less expensive for investors?

Mr. Turner: Thanks, Senator. And I just echoing those, as you continue to see the growth in digital advisers, with much lower fees, consensus seems to be that advice is getting less expensive.

Senator Warren: So, here you are, you are both independent experts, and I appreciate your opinions. They reflect the data, and they reflect the facts as best we know them. But the national Chamber of Commerce apparently disagrees with you – and they think they have bought some facts to back them up.

Last week they hosted a meeting to complain about a new Department of Labor rule that prevents Americans who are saving for retirement, from being cheated by their investment advisers. It's called the fiduciary rule. I know you are all familiar with it. And it requires investment advisers to offer advice that is good for their customers, not advice that makes more money for the investment adviser. Now, The Chamber was hyping a new "study" – which they had bought-and-paid for, claiming to show that the new rule made financial services more expensive for families. Now my first guess when I saw this is that they were pushing around this so-called study because under the new fiduciary rule, financial advisers are hurting for profits.

So, Mr. Turner, this is your area of expertise. With the new fiduciary rule in place, are investments shrinking and are financial advisers hurting for profits?

Mr. Turner: Yeah, so that's an interesting question and I think if you actually look in what I submitted for my written testimony. We predict by 2021 that there will be $450 billion in digital advisers. That's a fourfold increase from where it was at the end of last year. And a lot of that growth is driven by incumbent investment advisers who are looking towards these new technologies. So no longer is it the start-ups, but it's actually the larger firms that are offering these products.

Senator Warren: So this is really interesting. So start-ups are doing well, that's part of what we are learning here. And the CEOs for the large financial firms, like UBS and Charles Schwab, actually have now told their shareholders in earnings calls that their profits are great – and going up – with the fiduciary rule in place.

So the new rule is obviously lowering prices for consumers. It's shutting down cheating. It's letting investors access new markets. It's great for new financial startups like Betterment. It's good for the big guys like UBS. And yet the Chamber of Commerce is running around like a chicken with its head cut off trying to kill the rule.

I get it. There are some investment advisers who have built their profit models on kickbacks and on tricking their customers. But the fiduciary rule is good for consumers, good for markets, good for competition, good for start-ups, and even good for some of the biggest investment companies.

Even so, the lobbyists and trade associations like the National Chamber of Commerce are sucking down billions of dollars every year in this town, and those dollars don't keep flowing unless there's a fight somewhere. So the lobbyists and the trade associations keep right on fighting, whether it makes any sense or not.

If I ran one of these companies, I would take a long hard look at all the shareholder money that is wasted on trade associations and membership in the Chamber of Commerce. I think they're being taken for a ride.