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Definition of an Investment Advice Fiduciary

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Retirement Security Rule: Definition of an Investment Advice Fiduciary

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Submitter Information

Name: SHARON BARTON

General Comment

I believe the best way to approach this is what is in the best interest of the client and that is to offer both. I am a hybrid advisor. I also believe the banks benefit the most as the requirement to be a fee based advisor requires them to only buy investments with a fee. If you are buying income and the client is relying on that income...and then you have pay a fee and leave cash in the acct to cover the fee, it reduces the net income they receive. That is not in the client's best interest. As an example, UITs bought for income with one time brokerage commission vs paying an ongoing fee does not make sense. Especially when the client knows how much income, net of commission, is the amount they are relying on. Best to offer the client both where they can have one account as fee and one acct as commission depending on their needs. To put a blanket approach on it does not do what is in their best interest. Most of the time it is in the bank's best interest because they profit from revenue and a fee based acct provides that. I left Merrill/BofA, after 32 years, because of the rule change in 2017 when Merrill was the only firm on Wall Street that made us change our client's IRA accounts to fee based by 1/1/2017. And you can now see how that has gone down over the past 6 years. All of the old brokers realized that and have left ML. I left to get my clients out of that, because they would not have been able to get the income I had been providing for them for over 30 years.

I'm writing to express my concerns with the Department of Labor's (DOL)

Retirement Security rule proposal. I believe this proposal will harm millions of low- and middle-income households by limiting access to personalized financial guidance and advice.

As a financial professional, I'm already required to act in the best interests of my clients under the SEC's Regulation Best Interest (Reg BI) and, when considering annuities, applicable state laws that impose similar requirements. Together, these regulations ensure that my clients and I can focus on working together to build responsible savings and investments habits.

This proposal has the potential to upend our existing, comprehensive structure by limiting our ability to help our clients safeguard their savings in a manner of their choosing. In particular, the previous iteration of a substantially similar DOL rule resulted in a meaningful reduction in services offered to millions of low- and middle-income households. I am concerned that the resurrection of this rule is expected to exacerbate the racial wealth gap by roughly 20% due to a disproportionate impact on Black and Hispanic communities.

I hope the DOL will consider the harm the previous fiduciary rule had on communities, as well as the changes in securities regulations that came with the adoption of Reg BI and state insurance suitability rules and withdraw the Retirement Security rule proposal.