

PUBLIC SUBMISSION

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Docket: EBSA-2023-0014
Definition of an Investment Advice Fiduciary

Comment On: EBSA-2023-0014-0001
Retirement Security Rule: Definition of an Investment Advice Fiduciary

Document: 1210-AC02 comment 00322 O'Kelley 01022024

Submitter Information

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General Comment

The Honorable Lisa M. Gomez
Assistant Secretary of Labor
Employee Benefits Security Administration
U. S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

RE: RIN 1210-AC02

January 2, 2024

Dear Honorable Gomez,

I am a long-time independent insurance broker in Colorado. I am very, very concerned new proposed U.S. Department of Labor (DOL) fiduciary rule. It threatens my ability as a financial professional to serve my neighbors, many of whom are lower and middle-income families that turn to me and my colleagues for unbiased financial advice to advance financial security and, more importantly, their future retirement security.

This new rule governing advise that financial advisors provide regarding the Employee Retirement Income Security Act (ERISA), is stepping back to the 2016 DOL “fiduciary-only” rule. That rule, significantly limited consumers access to options when choosing advisors and investments, imposed excessive amounts of costly red tape and excessive administrative requirements on investment transactions and created more confusion - not less confusion - for the consumer.

Unfortunately, that 2016 DOL fiduciary rule significantly harmed those lower and middle-income workers before being overturned in a federal appeals court in 2018. But not before the damage was done!

The 2016 fiduciary ruling resulted in more than 10 million smaller retirement account owners losing the ability to work with their preferred financial professionals because the average consumer could no longer afford to work with their trusted, long-term advisors.

As a professional in my industry, I am reading RECENT research that indicates the average consumer with income less than \$100,000 (almost \$3M households) will see their aggregate savings fall by \$140 billion over ten years with Black and Latino retirement account owners losing even. The net result will create an even greater racial wealth gap by 20 percent.

Our industry is already self-policing unscrupulous agents and, in partnership with the U.S. Securities and Exchange Commission (SEC) Regulation Best Interest (Reg BI), requires all broker-dealers and their registered representatives to ALWAYS act in their client’s best interest without putting their own interests first. Additionally, almost all 50 states comply with the updated National Association of Insurance Commissioners (NAIC) regulation requiring insurance producers to satisfy a best interest standard that aligns with Reg BI. Last, DOL adopted its own new rule in 2020 that complements the federal and state regulatory regime.

Stop putting Americans' retirement options at risk! There is enough federal and state regulatory oversight to protect consumers.

Respectfully, please withdraw the proposed final regulation and proposed amendments to protect the retirement interests of me, my family, my neighbors, my colleagues, my clients....Main Street Americans.

Make me proud to be an American.

Sincerely,
Susan C O'Kelley

Avanti Business and Insurance Services
Golden, Colorado