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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-2010-0050-3491

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

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Submitter Information

Name: Anonymous Anonymous

Address: United States,

Email:]

General Comment

Thank God for President Trump for issuing the executive order to review this rule.

While I think the rule has good intentions, the road to you know where is often paved with good intentions. Let me tell you about the good intentions that are paving the road for Merrill Lynch (my personal brokerage firm) to make a lot of money off of me because as they say "we are following the government's rule."

My current status is that I have a little over \$2M in my brokerage account. About 1/3 is in an IRA / SEP plan covered under this rule. Even though the proposed rule allows the broker to allow commissioned-based services, Merrill Lynch (ML) says "no, we aren't going to do that." Why I asked. They responded "the requirements are too onerous; we have to document everything; someone could sue. Therefore we are going to remove the possibility that we are not acting in your best interest by charging you a flat fee of 1% of your \$635K IRA portfolio." But, I say, I don't want that. I don't

buy and sell stocks. I say, "I am a real investor - I buy and hold. Buy and hold, that is how you make money." They agree that I have been successful in this format, adding to my positions each year (maybe spending \$800) for brokerage fees for the IRA side of my account. They would rather me pay \$16,350 a year in fees than the \$800 I am currently spending.

(Please note that while Merrill Lynch says it will apply the new rule to IRA type accounts now, they will apply this rule to all accounts in 3 years. You see, for them it is about making money.)

ML is saying they "have" to change. It is in my best interest. It is to protect me. It is, they say, the government's fault. Now don't get me wrong, I am no fan of the government. As Ronald Reagan said, the scariest words in the English language are: "I am from the government and I am here to help." In this case, the government wants to make sure that retirees are getting good, solid, disinterested advice. I get that and I think it is laudable, but this regulation has had another effect, which is to get brokerage firms to move people into fee-based "advisory" services that they don't want nor need.

My broker has been trying to get me to do this for 10 years. Let me set up a portfolio of 30 stocks for you he says. I will manage it for you. I will charge you 1% he says. It will be balanced he says. I ask, how much money will I make? Well, he says, it will average out. How much I ask. He says there will be some good years and some bad years. How much will I make I ask again. Well, it depends. Then I ask, how much do I pay you on the years when the portfolio loses money. Well, 1% of the portfolio balance he says, because he can't be held to events outside his control. So in essence he wants me to go to a portfolio of 30 stocks, with an average return of about 4 - 5%, give him 1% of this return (or 20% of the return) and be thankful. Whereas now, I may pay \$1,500 in commissions on a \$2M portfolio, with growth of about 14% per year (on average - like I say, I buy and hold good quality stocks). For the non-mathematically inclined let me spell this out for you. With the current commission-based method I pay about \$1,500 a year and grow my portfolio about \$300K per year. In the fee-based method (which they say I have to do now for the IRA accounts and in three years for my entire portfolio) I would pay about \$40,000 a year in advisory fees and have growth of about \$80,000 a year. Currently I net about \$298,500 a year. In the new way I would net \$40,000 a year.

You may say, well you don't have to do the new way. The rules don't require it. That is true. But it is also true that shysters like ML and the financial services industry will always find a loophole. By removing choice from the consumer to make their own investment decisions you are empowering ML and others the opportunity to force us

into buying products we do not need nor want.

The above scenario is real. I have had this discussion with my advisor. Well, he says, we can move you to Merrill Edge, which is an online platform. Apparently, if you are on Merrill Edge they don't care what you do, because it is self directed. But then if I need assistance I will have to phone a call center in India to get some help.

This rule is a boon to the financial services industry and a catastrophe for consumers.

This rule impacts real people with real money. It impacts retirees who do not have extra money to spend, just so they can be "protected" by being charged 1% of their portfolio. This rule has given Merrill Lynch permission to steal \$40,000 of my hard earned money each and every year.

I am not putting my name here because I do not want people knowing my personal financial business. But the information above is exactly what is occurring with me and my ML advisor. You may contact me by email with any questions.