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Definition of the Term ‘‘Fiduciary’’; Conflict of Interest Rule—Retirement Investment Advice

Comment On: EBSA-2010-0050-3491

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

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General Comment

IN addition to my general comments in under Comment Tracking Number: 1k1-8v9a-uftn, I would like to offer these Specific Comments on specific parts of the Department of Labor's proposed rule entitled Definition of the Term "Fiduciary" - Delay of Applicability Date.

1. <https://www.federalregister.gov/d/2017-04096/p-80>

a. What innovations or changes in the delivery of financial advice have occurred that can be at least partially attributable to the rule? Will those innovations or changes make retirement investors better or worse off?

b. Comment: Need is the mother of invention. To the extent wealth management firms create more demand for fiduciary-level research, more of it will be developed. The idea of a robo-analyst to complement both advisors and robo-advisors speaks to a specific technology need that would gain momentum were the DOL to proceed with this rule. These improvements will undoubtedly make retirement investors better off. Traditionally, investment recommendations have been based too much on research that is at risk of being conflicted or that is based on technical analysis. Investors deserve better. It is hard to argue otherwise.

2. <https://www.federalregister.gov/d/2017-04096/p-81>

a. What changes have been made to investor education both in terms of access and content in response to the rule and PTEs, and to what extent have any changes helped or harmed investors?

b. Comment: We applaud the Department of Labor for raising awareness of the importance of fiduciary standards. No matter the final legalities, countless investors are better equipped to navigate financial markets by knowing their right to a fiduciary level of service. As more wealth management firms (e.g. Merrill Lynch and Fidelity) embrace offering the fiduciary standard of service as a competitive advantage, they will likely advertise how this offering differentiates them from firms that do not provide the fiduciary level of service. This advertisement will serve as education for investors. This education, incontrovertibly, helps investors.

3. <https://www.federalregister.gov/d/2017-04096/p-64>

a. economic theory that predicts harmful market failures due to the information asymmetries that are present when ordinary investors rely on advisers who are far more expert than them, but highly conflicted

b. Comment: The best way to fix information asymmetries is to eliminate them. Exploiting information asymmetries seems to conflict with providing a fiduciary level of service. Moreover, we believe that making truly diligent research, as defined above, available to more (hopefully, all) investors puts more (or all) investors on fairer footing with those who have traditionally benefits from information asymmetries. In other words, requiring a fiduciary level of service will precipitate the propagation of research that supports such service, and proliferation of such research increases the number of appropriately informed investors, which decreases the potential pervasiveness of information asymmetries. As a consequence, market failures are less likely. We would add that capital markets would, in general, be more efficient as well.