

# PUBLIC SUBMISSION

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**Docket:** EBSA-2010-0050

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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## Submitter Information

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## General Comment

I strongly urge the Department of Labor to deny the extension of the applicability date and to allow the Rule, "Definition of the Term "Fiduciary"; Conflict of Interest Rule Retirement Investment Advice", to take effect in June 2017 as originally stated in the Final Rule (April 8, 2016).

The Department of Labor's definition of a fiduciary demands that advisors act in the best interests of their clients, and to put their clients' interests above their own. It leaves no room for advisors to conceal any potential conflict of interest, and states that all fees and commissions must be clearly disclosed in dollar form to clients. The definition has been expanded to include any professional making a recommendation or solicitation and not simply giving ongoing advice. Previously, only advisors who were charging a fee for service (either hourly or as a percentage of account holdings) on retirement plans were considered fiduciaries.

As an American citizen who has saved for retirement throughout my working life, I strongly believe that delaying the implementation of this Rule, WHICH ALREADY UNDERWENT EXTENSIVE COMMENT AND ANALYSIS IN ITS ORIGINAL

RULEMAKING PROCESS before the Final Rule was published on April 8, 2016, would harm ordinary American investors and not significantly benefit as an offset the financial planning/investment advisor community.

I consider myself a well-educated person, and yet I have found that understanding the appropriate range of investments, how retirement plans work, and how the applicable rules work, is difficult. I am not a sophisticated investor. Consider how much more difficult it is for less well-educated American workers to understand how retirement (ERISA) plans or IRAs work, and how much they must rely upon and trust the advice, which they should be able to assume is given in their best interests, from their investment advisors. Shouldn't our government, and especially the Department of Labor, PROTECT AMERICAN WORKERS AND THEIR RETIREMENT SAVINGS?

One would think that the basic standard for advising workers with respect to their retirement plans in our increasingly complex financial environment is the fiduciary standard; that is, that the advisor's undivided loyalty is to the client, unmixed with the investment advisor's own personal or firm interests. There have been too many instances of workers directed to plans with too high administrative costs or inappropriate assets. As DOL stated in the Preamble to the Final Rule:

"In light of the breadth and intent of ERISA and the Code's statutory definition, the growth of participant directed investment arrangements and IRAs, and the need for plans and IRA owners to seek out and rely on sophisticated financial advisers to make critical investment decisions in an increasingly complex financial marketplace..."

Delaying the Department of Labor's fiduciary rule would harm investors and violate regulatory requirements. Even The Financial Planning Coalition, which is comprised of the Certified Financial Planner Board of Standards (CFP Board), Financial Planning Association (FPA) and National Association of Personal Financial Advisors (NAPFA), opposes the delay in implementation of the Rule. The Coalition stated in its comment that:

"The Coalition believes that a strengthened fiduciary rule under ERISA is essential for America's Retirement Investors and is workable for Advisers, and we strongly support implementation of the Department's final fiduciary rule (hereinafter "Final Rule"). For those who truly want to strengthen retirement security and ensure that Advisers protect their clients' best interests, allowing the Final Rule to be implemented without delay is the best way to achieve those goals. The Final Rule is fully consistent with the principles of a true fiduciary standard under ERISA. Delaying implementation of the Final Rule is unnecessary, unwarranted and will only serve to derail this long

overdue reform necessary to protect and preserve Americans' retirement savings."

Therefore, I strongly urge the Department of Labor to allow the Rule to take effect in June 2017, as established in the Final Rule. Thank you.