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

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

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Submitter Information

Name: C Batcher

Address: Toledo, OH, 43615

Organization: Cap Averill II & Associates Inc

General Comment

This comment regards the Fiduciary Rule.

I am a member of a retirement/financial planning firm in Toledo, Ohio. We use best in-class, low commission, fixed and fixed indexed annuities with clients who are looking for safety of principal with the opportunity to make gains based on the movement of market indices. We represent thousands of clients who trust us with millions of dollars. More importantly, they trust us with lifelong savings so they will be able to enjoy their retirement years.

My problem with the Fiduciary Rule is that it takes for granted that an individual such as myself cannot possibly act in my clients' best interest. Furthermore, the rule makes no room for firms such as the one I work for who have been serving clients for many, many years without charging annual, recurring fees against the clients' account values.

With the implementation of the fiduciary rule we will be forced to stop selling annuities which pay a one-time 4% commission which does not come out of the clients' funds.

With the implementation of the fiduciary rule we will be forced to sell products with an annual 1-1.5% charge directly against the clients' assets.

How is it in the client's best interest to charge an annual fee that reduces the clients' assets?

The low commissions we receive on the products we sell are enough to support our modest sized office. The staff provide financial advice, assistance with Social Security benefits, assistance with withdrawals including required minimum withdrawals, help with equity index allocations, annual reviews, etc.

The fiduciary rule casts us in a negative light. We find ourselves in the situation where we need to convince clients of common sense: Working with the onetime commissions we are paid from the annuity company is in their best interest compared to charging an annual fee which reduces their assets.

Consider this: Over the same 10 year period for which we are now paid a one-time 4% commission from an annuity company, a fee based product would pay us 15% charged against the clients assets.

Granted, there are retirement planners who do not act in the client's best interest. But making good firms who have the client's interest at heart take the hit for what bad people do is a flawed solution.

We have clients who started with us in 2007 with fixed indexed annuities. They did not loose a nickel in 2008-2009 then made sizable gains in 2010-2011. Not only did they not pay any recurring fees against their assets, they received incentives on the purchase of the products.

Consider that the fiduciary rule implies that anyone acting on a fiduciary standard automatically acts in the client's best interest. Did Bernie Madoff act in his clients' best interest? It seems false to promote the idea that a rule that sets a standard will transform a dishonest person into an honest.

Finally, our clients don't loose money and we have not had a disgruntled client. It seems the fiduciary rule penalizes the good based on bad assumptions. It rewards those who now charge exorbitant fees even when their clients loose money.