

PUBLIC SUBMISSION

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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

While I appreciate the intent of the law is to help protect the consumer, I believe the law as proposed actually causes much more potential harm and challenges to the ordinary investor.

I am in agreement that advisors should be capped on making a reasonable compensation for advising or selling retirement products to their clients. Product commissions of 3 percent to as high as 8 percent or higher only serve to induce advisors to act in their own best interest. However, the proposed alternative of mandating a flat fee effectively directs advisors from helping smaller clients and investors who are often the ones in need of the greatest assistance because the proposed compensation and regulatory burden is simply economically unfeasible. This proposed law will prompt advisors and firms to abandon many of their smaller

clients or to shift them to fully automated platforms where the valuable insight of an advisor is no longer available. Further, defining whether you are truly helping the client will be determined by my fellow attorneys and the local courts rather than a reasonable maximum compensation level for retirement accounts.

As a valued advisor, we are often in a position of guiding our clients to take unpopular steps and actions. At times, it may be as simple as convincing investors to not panic in volatility and buying high and selling low. Many investors, if left to their own discretion, sell when everything has fallen and only regain interest when the optimal time to invest has long passed. Thus, I urge the committee to take another look at the proposed rule and ask ourselves again about the intent of this law. I think the goal of the law is to effectively protect retirement investors from being exploited from brokers and investors through investing in products with inappropriate levels of compensation. This law effectively relegates the average investor to investing on their own or through an automated program ignoring the true benefit advisors provide to the investor public.