



Robert Hamman, President

The Honorable Edward Hugler
Acting Secretary
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Submitted Electronically - **RIN 1210-AB79**

to: EBSA.FiduciaryRuleExamination@dol.gov

Re: Fiduciary Proposal

Dear Acting Secretary Hugler:

It seems that a part of the justification used by the DOL to promulgate the rules to go in effect April 10 stem from “confusion of the public” just who and who isn’t a fiduciary. The following terms can be used by a licensed securities person, an investment advisor, an insurance licensed person or a non-licensed person:

- Investment Advisor -Financial Planner -Retirement Specialist-Investment Advisor
- Money Manager -Wealth Manager -Investment Manager -Asset Manager
- Investment Representative -Investment Counselor -Personal Advisor
- Private Wealth Manager -Personal Financial Manager -Private Equity Consultant

...and many more

It seems that the answer from DOL is to make everyone (except insurance agents) a fiduciary regardless of title to settle this issue. It would make more sense to define the titles used by an Investment Advisor Representative (IAR) and a Registered Representative (RR) and require that whatever titles are specified by regulation be used. Make it publicly known that anyone using other titles are NOT specified by terms in the regulation is NOT either one of these. Make it known, from the titles, that the RR titles are paid by commissions and that the IAR titles are paid by fees. This seems a much more sensible approach than making a “one size fits all” (the fiduciary standard) rule. The regulations would need to be strictly enforced to benefit the public and make it abundantly clear the capacity in which the person is serving.

The DOL is proposing to substitute its judgement for that of investors in deciding the type of financial professional and fee structure all investors should use when investing their retirement savings. In doing so, it has ignored the benefits to investors of a disclosure-based approach (used since 1933) to mitigate potential conflicts of interest. The DOL has overlooked the fact that investors may benefit from choice: choice of products, choice of IARs or RRs and choice in making decisions for themselves.

Especially smaller investors will suffer the most harm under the current proposal. If an investor has \$25,000 (DOL employees look at your own savings accounts) in a retirement plan, with proposed DOL rules pushing for accounts to be fee based, a 1% annual fee would be \$250 or \$20.83 per month. It would raise the question of “why would an IAR accept a fiduciary level of liability for such a small level of compensation?” That example is why the small accounts will receive no personal service under the DOL rule.

The DOL’s specific focus on fee based compensation for retirement plans (especially IRAs) may promote HIGHER fees for investors. If an IAR charges an annual charge of 1% (common) to manage an account of \$200,000 and the IRA holder is 50 years old and retires at age 65, the fee would amount to 15% in a flat market. In a rising market, more, in a falling market, less. Whereas, a commission investment (mutual fund) with a front end load of 6% including a “trailing” fee of .25% would amount to only 9.75%. Obviously 9.75% is less than 15%, yet the DOL regulations discourage the commission approach.

Raising a commission RR to the fiduciary standard of a bank trust officer is just wrong and poorly thought out. The commission system has been around for over a 75 years and the DOL wishes to assault a system that is a hallmark of American capitalism. There is no doubt that this rule was created under a liberal regime that may have little value for traditional America.

I respectfully request that the DOL scrap the current proposal and work closely with those regulatory agencies and quasi-agencies (FINRA) that have regulated the investment industry for over 75 years and better understand the industry than the DOL to create any future standards.

Sincerely,



Robert L. Hamman, President/CCO