From: Ed Mierzwinski [mailto:ed.mierzwinski@publicinterestnetwork.org]
Sent: Friday, March 17, 2017 7:42 PM
To: EBSA.FiduciaryRuleExamination
Subject: Comment opposing delay RIN 1210-AB79 Fiduciary Defeinition

U.S. PIRG
600 Penn Ave SE #400
Washington, DC 20003

17 March 2017

Office of Regulations and Interpretations
Employee Benefits Security Administration
Attn: Fiduciary Rule Examination
Room N-5655
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Re: Definition of the Term "Fiduciary" - Delay of Applicability Date, RIN 1210-AB79

SUMMARY: REJECT DELAY, IMPLEMENT RULE NOW

Ladies and Gentlemen:

We write on behalf of U.S. PIRG and the citizen members of state Public Interest Research Groups around the nation. PIRGs are non-profit, non-partisan public interest advocacy organizations that take on powerful interests on behalf of their members.

In particular, we note that the state PIRGs were founded on college campuses and thousands of our members today are college students in student PIRG chapters across the country.

They and other young people have the most to gain from an on-time implementation of the “fiduciary” rule as already finalized and the most to lose from an unjustified delay resulting in a detrimental pro-Wall Street modification.

Young people represent the future of this country. They deserve better than to have their retirement savings placed in the hands of investment advisors who don’t have their best interests in mind.

Increasingly, other political winds are threatening their other government entitlements, most notably the future of Social Security and affordable health care. This department and this administration should not also place theirs, or indeed anyone’s, personal retirement savings at greater risk.

We express our continued support for the Department of Labor’s (DOL’s) conflict of interest rule and voice strong opposition to the proposal to delay the rule’s applicability date. This rule strengthens protections for retirement savers by requiring financial advisers and their firms to provide retirement investment advice that is in their clients' best interests. Delaying implementation of these new protections would allow financial advisers and their firms to continue to engage in harmful practices that threaten the retirement security of their clients. Even according to the DOL's own analysis, this request is unjustified.

Millions of Americans are counting on their 401(k)s and IRAs, and many depend on investment professionals for advice about managing these complex retirement plans. Investors should be able to trust financial advisers to put their interests first. Unfortunately, the rules that have applied to retirement investment advice have made it too easy for some advisers to line their own pockets at the expense of retirees.

The losses that stem from such conflicted advice are significant. After a careful review of the evidence, which consistently points to a substantial failure of the market for retirement advice, the DOL estimated that IRA holders receiving conflicted investment advice can expect their investments to underperform by an average of 50 to 100 basis points per year over the next 20 years. Based on this careful review of the evidence, the DOL concluded that the underperformance associated with conflicts of interest – in the mutual funds segment alone – is likely to cost IRA investors between $95 billion and $189 billion over the next 10 years and between $202 billion and $404 billion over the next 20 years. An ERISA plan investor who rolls her retirement savings into an IRA could lose 6 to 12 and possibly as much as 23 percent of the value of her savings over 30 years of retirement by accepting advice from a conflicted financial adviser. The harm to retirement savers is far greater when you consider the full range of products and the full range of conflicts that influence advisers' investment recommendations.

The DOL rule would close the loopholes in the law that have allowed financial advisers to evade their duty to serve our best interest. It would strengthen protections for retirement savers by requiring financial advisers and their firms to provide retirement investment advice that is in our best interests. As a result, retirement savers will have the confidence that when we go to financial advisers, they are getting honest advice, instead of a sales pitch disguised as advice. Americans who've worked hard to save for retirement need and deserve these basic, common-sense protections.

Delaying implementation of these new protections would allow financial advisers and their firms to continue to engage in harmful conflicts of interest that threaten the retirement security of their hardworking clients. This creates real and tangible harm to investors. Based on the review of the cost-benefit evidence that was originally conducted by the DOL and reviewed and cleared by the Office of Information and Regulatory Affairs (OIRA) in finalizing this rule, and assuming that investments influenced by conflicts of interest during the delay period are held for some significant time, delaying this rule by 60 days would create billions of dollars in avoidable losses to investors. The proposal does not cite or support any benefits of delay that come close to counterbalancing this major harm.

If DOL were to delay the rule, it would appear to be taking the position that the interests of certain sell-side businesses in continuing to profit through their current practices should win out over retirement savers' interests in receiving fiduciary protections from the rule. This would be profoundly unjust. Such a decision to delay the rule would also make a mockery of the extensive, multi-year process of examination, comment, and study of the rule's benefits participated in by investors, including some of the undersigned organizations. The message would be that the arduous and controversial multi-year process of cost benefit analysis can simply be ignored when it comes to the implementation of a rule that creates inconveniences for some segments of the financial industry.

Retirement savers need and deserve to receive the protections of the rule without delay. The DOL should conclude that the proposed delay is unjustified and that the rule should be implemented beginning on April 10th.

Respectfully submitted,

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