From:	Dock Treece
To:	FiduciaryRuleExamination - EBSA
Subject:	DOL Fiduciary Rule Response
Date:	Tuesday, July 11, 2017 10:59:13 AM
Attachments:	DOL Fiduciary Rule Response.pdf

Subject: RIN 1210-AB82

Attn: D-11933

Docket ID: EBSA-2017-0004

From:

Dock D Treece
Treece Investment Advisory Corp

Dock D. Treece
Treece Investment Advisory Corp
6800 West Central Avenue, Suite G-1
Toledo, Ohio 43617

July 11, 2017

Office of Exemption Determinations
Employee Benefits and Security Administration (Attn: D-11933)
U.S. Department of Labor
200 Constitution Ave, NW, Suite 400
Washington, D.C. 20210

Subject: RIN 1210-AB82 (The Fiduciary Rule and Prohibited Transaction Exemptions)

To Whom It May Concern:

The purpose of this letter is to urge delay by the U.S. Department of Labor (the "Department" or "DOL") of the Fiduciary Rule and Prohibited Transaction Exemptions ("PTEs"). While I'm sure many of my thoughts will be echoed in separate comment letters received by your agency, I am hopeful that I might provide a slightly different perspective or uniquely frame some thoughts shared by many in my industry. I hope this will provide your staff worthwhile feedback in the creation and implementation of more effective regulatory measures.

I am a veteran of the investment industry with nearly forty years of experience operating in more than a dozen (mostly Midwestern) states under the supervision of numerous federal and state regulators. Having closely followed the development and ensuing debate of the Department's Fiduciary Rule, I would like to share with you the following observations and insights.

1. While the direct impact of the Department's proposed rule on the investment industry will be limited, it will serve to restrict competition among firms – especially smaller firms – by raising the already-burdensome costs of complying with regulation. The biggest beneficiaries of this rule will be attorneys and compliance professionals, many of whom are themselves former regulatory staff.

2. The proposed rule will – in fact, already does – indirectly restrict investment options for investors, particularly the less affluent. Already I can report that I have met with current and potential clients who have informed me of onerous restrictions being placed on their

retirement accounts by plan administrators and/or advisors. Further, many are left to navigate a complex investment landscape on their own, as providers refuse the liability now inherent with granting advice to retirement plan participants. Many have expressed valid concern that their investment options may face additional restrictions in the future, ultimately precluding them from earning reasonable rates of return to supplement their projected social security payments. Naturally, these concerns are exacerbated when Congress entertains testimony suggesting the nationalization of private investment accounts, which has occurred even within the past decade.

3. It is a very common opinion in my industry – which I share – that the Department of Labor is a specifically unsuitable body to implement and enforce a Fiduciary Standard or Rule for the investment advisory industry. While most agree that a need exists for a Fiduciary Rule of some sort, consensus is that such a rule should originate with a more appropriate regulator already active in the investment industry. Currently, the DOL has – to my knowledge – no mechanism for enforcing this rule outside the courts.

4. This lack of industry oversight is startling when compared with other regulators like the Securities and Exchange Commission ("SEC") or Financial Industry Regulatory Authority ("FINRA"), with whom many in our industry interact regularly. However, neither FINRA nor the SEC are authorized to enforce DOL rules (they would need to draft, implement, and enforce similar regulations), leaving the currently-proposed rule mostly toothless. When, in rare cases, the rule might be applied, it will be only as a form for pecuniary measures to be imposed by the courts. This will, of course, necessitate a long and burdensome delay following alleged malfeasance by an advisor, filing of suit by a wronged client, proving of damages, careful weighing of many technical aspects to the investment industry and exigent circumstances, all to be done under the purview of federal judges who, in many cases, are unsophisticated investors themselves.

There is little argument, at this point, among those in the financial services industry that some sort of Fiduciary Rule is necessary. There are too many cases of advisors acting contrary to their clients' interests for such a rule not to be developed, implemented, and rigidly enforced. Personally, I routinely encounter cases of advisors peddling inappropriate products and investments to unsuspecting clients, particularly the more elderly or less sophisticated investors.

However, it should be universally understood at this point that the investing public needs help from advisors. Proportionately few investors are capable of navigating the complicated world of capital markets without the input of well-meaning advisors. Granted, the investing public is also in need of protection by regulators against bad actors, to be provided through industry oversight and strict enforcement of rules and standards. Already, ours is a highly regulated industry; but we need rules that are effective. We need regulators that can bring a quick halt to malfeasance and help provide mechanisms to make investors whole and punish bad actors. What we as an industry do *not* need, but what I and others fear the current Fiduciary Rule will provide, is more toothless regulation.

For all these reasons and more, I strongly urge continued delay of the proposed Fiduciary Rule and PTEs, followed by careful consideration of the ideal framework for developing and implementing these proposed measures. Many in the industry – myself included – would encourage the coordination by the DOL with other, more active industry regulators in further developing concise, meaningful regulation concerning fiduciary standards and restrictions. I thank you very much for welcoming feedback and for your continued efforts to protect the investing public.

Sincerely,

Dock D. Treece
President
Treece Investment Advisory Corp.