July 14, 2017

Re: Comment on DOL "Fiduciary Rule"

To Whom It May Concern:

I have been a Registered Representative and a General Securities Representative with a small independent Broker/Dealer for a period of 24+ years up to the present. During this time, I have focused my practice on low and middle income clients, many in the military, many with young families, helping them get their finances in order, providing financial education, and getting them started with regular monthly investments in amounts their circumstances indicated they could afford.

My work has always included a thorough review of their income, assets, debts, short, medium and long term investment goals, their sensitivities with regard to market fluctuations and to various types of risks. If a client has debt, I work out a debt repayment plan. If a client does not have an adequate amount of emergency cash on hand, I set up a plan to accumulate needed cash as an immediate priority. Setting up Roth IRAs and where appropriate, 529 College Savings Plans, are important aspects of monthly investing priorities I impress upon my clients.

Over the years, my clients have, in the main, continued to invest monthly, many increasing their investment amounts as their incomes have grown. As of today, I have 592 clients investing on a regular basis. A few clients have $1,000,000 account balances; many $100,000+. Most have account balances under $50,000 and some still maintain their original investment amount of $50 per month.

I am not a Registered Investment Advisor, however I am most certainly held to a code of conduct that dictates I always consider the best interest of my clients, not my own, in all my dealings with my clients; by my own moral code of ethics, my Compliance Officer and Broker/Dealer, who review all my work, and by our self regulatory organization, FINRA. I regularly complete FINRA exams every 3 years to keep my licenses up to date, complete continuing education courses and firm compliance meetings each year and keep complete and current client records as well. I am conscientious and careful in my work. However, I am increasingly concerned and dismayed by all of the press and "noise" surrounding the Fiduciary Rule that intimates that even though I adhere to a legal and legitimate business model under the Investment Act of 1940, because I work on a commission basis only, somehow, I am providing inferior and inadequate financial advice to my many clients. A fact that is so often overlooked or ignored by many "experts", who have never worked in the field with real clients of modest means, is that many thousands of Americans want to invest on their own, if given the opportunity, and cannot afford the minimum investment amount required by mutual fund companies, but can and do invest small amounts on a regular monthly basis which many fund companies allow in lieu of a minimum lump sum investment. There is no way a fee-based only, Registered Investment Advisor, can serve these people and make a living. My commission amounts basically, to approximately $4.00 for every $100 monthly investment. I perform all the services my clients need, including answering all their questions via phone, email or in person, as well as all subsequent paperwork they require, without charging additional fees. This includes assistance with stopping and restarting investments as requested by clients, changing account registrations in event of marriage, death, divorce, remarriage, birth of subsequent children, beneficiary changes, and all the other many issues that come up in life. My clients would not have investments if they were required to pay an annual fee to an RIA. In fact no RIA would take most of my clients because most do not have enough money under management to make it worth their while. However, over the years my clients have had money they needed to help their children with college (One recently called to thank me. She started to invest over 20 years ago and I kept encouraging her, and she was able to help pay tuition for her daughter who just graduated from medical school). Others have had the down payment to purchase a home, go home for funerals and weddings; help family members who needed financial help and pay for many other life events that occur over the years. I am grateful for all the value I have contributed to their lives through offering them the opportunity to invest small amounts of money regularly over many years.

But now, this DOL “Fiduciary Rule” is presenting obstacles for me to continue to interact with my clients after many years together, that I consider onerous and unfair. I will no longer be able to offer recommendations when they call with changes in circumstances or approach a life-changing event. I will not be able to continue to earn commission on their monthly investments if they desire any changes without their entering into a BICE each time they require a change. I cannot make any recommendations on their IRA accounts.

In trying to “protect” investors, the “Fiduciary Rule” advocates are ignoring all of the thousands of low and middle-income investors for whom regular monthly investments of small amounts are all they can afford. They somehow have to be “protected” from the thousands of men and women, who like me, work diligently doing their very best for these people, earning small commissions, not fees, and serve them ethically, responsibly and fairly.

Yes, I am aware of abusive practices by those who work on commission, but I am also aware of fee-based individuals and companies who take advantage of clients. It is an unfortunate fact of life that there are unscrupulous, self-serving people in every profession.

This rule will definitely make investing in the United States available only to those with company plans, handled by mega firms who can afford the legal and administrative workforce needed to comply with this onerous law while the 225,000 (est.) small financial advisers will no longer be able to afford to keep their practices, which many of them have so diligently worked to build up and who serve modest investors of modest means. Is it fair to upset these investors’ relationships with their advisers, disrupt their investment plans, and limit many more Americans’ investment choices in the future to “protect” them from hard working, honest and ethical advisers who simply are paid on a business model that allows for small, systematic investment amounts instead of large lump sums on which a fee can be charged?

Sometimes there are unintended consequences to laws and rules that actually hurt the very people that they purport to protect. The DOL Fiduciary Rule is one of them. Perhaps we need, as a country, to give average men and women more credit and allow them the responsibility for making decisions for themselves. This rule limits their access and choices in the name of protecting their retirement savings from excessive charges; all under the pretext that everyone would have a much larger retirement savings amount if they were protected by this rule. It is not true. Life happens. People take money out of all types of retirement plans for all sorts of reasons…. we cannot protect them from the decisions they make, wise or unwise.

We are very close to going down the road to a government mandated retirement savings system (in addition to Social Security) which will require automatic contributions into IRAs and will be controlled by large financial institutions, who alone will be able to comply with the many confusing and contorted provisions of this Rule and the many others likely to follow in the future.

Al Fortune
General Securities Representative