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U.S. Department of Labor
Office of Regulations and Interpretations,
Employee Benefits Security Administration,
Attn: Conflict of Interest Rule, Room N-5655
200 Constitution Avenue, NW, Washington, DC 20210.

RE: RIN 1210-AB32

The proposed rule provides a workable compensation model consistent with a fiduciary obligation for providers of retirement advice. In my opinion, if a professional provider cannot operate in accordance with the rule proposal, that provider should seek a job in a non-professional capacity. Advice received under a fiduciary obligation will almost always be better than, and at a minimum equal to, advice received under a suitability standard. Thus, there is simply no reason to disadvantage any advice recipients by permitting any standard other than that of a fiduciary.

Making retirement advisers subject to a fiduciary obligation will reduce inefficiencies in the market. Efficient market theory implies rational behavior by investors with respect to their own profit motives. If retirement advisers operate on anything less than a fiduciary standard, it would seem to me that their behavior might add an input into the market quite different from what efficient market theory might suggest, thereby creating market distortions and inefficiencies.

Most importantly, the costs of this rule are nominal relative to the benefits provided to Americans. Indeed, what some might view as costs of this rule proposal will actually be larger gains that accrue for retirement investors. In other words, lesser income for advice providers necessarily means increased income for retirement investors. Thus, any costs associated with the rule proposal are hardly costs at all! Therefore, the increasing costs and income reductions for retirement advisers will, in large part, correspondingly increase gains for retirement investors. Moreover, it is the hallmark of a true profession to place the interests of its clients above the interests of industry participants. This rule proposal, with its reasonable conflict disclosure provisions, is consistent with that professional standard.

Indeed, by definition, this rule proposal must be of great benefit to retirement investors.

The proposed rule will go far in curbing the potential exploitation of the majority of Americans. Americans are generally unsophisticated in finance matters. Americans simply do not have the academic and financial ability to exercise adequate supervision and control over a financial professional engaged in their retirement affairs, absent a fiduciary standard. When Americans see a physician, we don’t expect them to be medical experts; likewise, when Americans seek retirement advice, we should not expect them to be financial and retirement experts. The burden of professional responsibility must always be placed on the person with the professional knowledge. In sum, this rule proposal recognizes the inability of retirement investors to professionally manage their own affairs and serves to protect virtually all Americans from possible financial exploitation, at little or no cost.

Secretary Perez said “[u]nder the proposed rule, retirement advisers can be paid in various ways, as long as they are willing to put their customers' best interest first." This standard meets the needs of the American public and it permits retirement advisers to receive reasonable compensation with adequate disclosure. The rule proposal simply requires prudent and unbiased advice. It should be adopted.

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