From: Jeff Carter, RICP, CSA, RFC [mailto:jeffdcarter1@gmail.com]
Sent: Saturday, May 09, 2015 11:09 PM
To: EBSA, E-ORI - EBSA
Subject: Proposed Fiduciary Duty Rule Comment

May 08, 2015

The Honorable Thomas E. Perez
Secretary
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Re: Department of Labor's Proposed Fiduciary Duty Rule

Dear Secretary Perez:

I am writing to address issues raised by 30 members of the New Democrat Coalition ("NDC") in a letter to you dated January 13, 2014 ("Letter"). The Letter focuses on the fiduciary duty rule that the Department of Labor ("DOL") intends to re-propose later this year 2015.

This rule will update and expand the definition of the term "fiduciary" under the Employee Retirement Income Security Act of 1974 ("ERISA").

The last 25 years I have served the American middle market consumer as a Financial Professional.

Rhetoric, spin, and self-interest aside, I believe the following concerns must be addressed prior to any final fiduciary duty ruling is re-proposed by the DOL.

The DOL Fiduciary Proposal as currently written is unworkable for retirement savers of the middle market (the majority of consumers in America) and their professional advisors.

As the current fiduciary duty rule is proposed it would fundamentally change the way advisors do business, disrupt long-established client-advisor relationships, increase costs for advisors and consumers and prevent advisors from providing retirement investors with certain types of important advice and services.

The proposed regulations would certainly reduce the availability of services and advice as some advisors would either shift their practices away from the middle market retirement sector or would drop middle to lower market consumers who would not be able to afford the increased costs.

Consumers may find themselves unable to continue working with advisors they know and trust and may be unable to receive advice in a number of common, yet complicated, retirement income planning situations. Certainly the proposed rule would drive up the cost of retirement investment advice and services.

The Department of Labor current proposed changes would require financial professionals to present a complicated and potentially confusing "best interest contract" asking these clients to sign. The contract would require advisors to act in the best interest of the retirement investor (as defined by ERISA), adopt written policies to mitigate conflicts of interests (such as a policy creating only level commissions that do not vary based on which products the advisor recommends), and complete increased disclosure paperwork with each transaction.

The proposed changes would also require advisors to complete a (potentially lengthy) annual disclosure document for each client detailing all transactions, fees and expenses, and the advisor's direct and indirect compensation. On top of that, financial institutions would have to maintain updated web sites that show the amount of compensation advisors would receive for each of its product offerings. This would be particularly burdensome for smaller firms with limited resources. They may choose to exit the market, resulting in decreased competition and consumer choices.

If these proposed changes as currently written are adopted, advisors who continue to serve retirement investors would face restrictions making it difficult or impossible for them to perform some services clients have grown to expect from them. For example, the proposed rule would prohibit advice on plan distributions, including individual retirement account rollovers.

Any advisor affiliated with a plan service provider, such as an insurance company, would not be allowed to sell a variable annuity from that provider. The advisor would still be allowed to sell fixed-rate annuities, but this would obviously limit the clients' choices.

It is unclear how the advisor would be able to work in the best interest of the client under this situation. What if a variable annuity product would be in the best interest of a client but the rule prohibits the advisor from selling that product? Similarly, would an advisor not licensed to sell securities violate his or her fiduciary duty simply by limiting advice to non-securities solutions? The rule is unclear on this.

What is clearer is that the rule would limit consumers' options.

I implore you to slow this process down while analyzing the long-term impact this fiduciary duty proposal would have on 76+ million baby boomers (the majority of whom represent the middle market consumers in America).

With Much Respect and Very Best Personal Regards,

Jeff Carter, RICP
Retirement Income Certified Professional

888-252-7941 | I've spent the last 25 Years with a front row seat to see firsthand the challenges facing today's retirees.