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Definition of the Term ‘‘Fiduciary’’; Conflict of Interest Rule—Retirement Investment Advice; Notice of proposed rulemaking and withdrawal of previous proposed rule.

Comment On: EBSA-2010-0050-0204

Definition of the Term Fiduciary; Conflict of Interest Rule-Retirement Investment Advice

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General Comment

Many thanks to the DOL for their continued efforts to protect investors (especially working class to modestly affluent investors, who may be less experienced in dealing with the industry, yet have a decent chunk of \$ in retirement plans). As an industry veteran, I laud their efforts, and want to express support for this adjusted language. WE direly need to restore trust, something which cannot (and should not) be accomplished unless it is EARNED. Increasing accountability via a fiduciary standard for all involved in retirement plans appears to me to be a step in the right direction, though it is clearly not a panacea.

I realize some of my peers claim this will lead to "balkanization" of regulations - I disagree. The industry can always hold itself to the highest possible standard and NOT be "balkanized" in terms of compliance. Also, one has to start somewhere - and the claims that the SEC should rule on this MAY merely be an effort to delay any upgrade to investor protections (though I hope that is not the case, as even the SEC seems skeptical of their ability to put a rule proposal forward in a timely manner).

While I am not optimistic that a broader definition of fiduciary will make much difference initially (lack of enforcement, i.e. Madoff's advisory shop NOT his B/D was running the Ponzi, and which one had the fiduciary standard there?) at least having enhanced legal recourse for investors may upgrade adviser behaviors. I recall the scandals on the 401(k) kick-backs (masquerading as "revenue sharing" and showcased on FRONTLINE a couple of years ago) so realize even an ERISA strength standard is not immune to being cherry-picked if budgets constrain enforcement - but one can hope that some sort of "safe harbors" evolve to mitigate

litigation costs and offer guidance to the industry in terms of "defining" investor interests. In due course perhaps we will be in an investment compensation culture which rewards us for our "value-add" to clients - not for merely gathering assets?

I personally am hopeful of an eventual "alignment of interests" between the industry and its clients, and while I am skeptical of any enforcement mechanism I am grateful for the dialogue, the efforts of all, and even the possibility of more "tools" for investors to perhaps retroactively protect their interests...!