

# PUBLIC SUBMISSION

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**Docket:** EBSA-2010-0050

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-2010-0050-0205

Definition of Fiduciary; Conflict of Interest Rule-Retirement Investment Advice and Related Proposed Prohibited Transaction Exemptions; Hearing and Comment Period Extension

**Document:** EBSA-2010-0050-DRAFT-0325

Comment on FR Doc # 2015-14921

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## Submitter Information

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## General Comment

As a 40-year member of the Society of Financial Service Professionals (my designations include MBA, CLU, and AEP), my commitment to clients is to put their interests above my own a common definition of fiduciary. A fiduciary is further committed to 1)act with the skill, care, diligence and good judgment of a professional; 2) not mislead clients; 3) provide conspicuous, full and fair disclosure of all important facts; 4) avoid conflicts of interest; and 5) fully disclose and fairly manage, in the clients favor, any unavoidable conflicts. What my clients know and expect is they derive a great deal of value and appropriate financial products from me and my firm. How and what - I get compensated is fully disclosed and isn't a problem for them.

But the DOLs proposed Fiduciary rule is almost entirely focused on investment costs and is silent on considerations of how the client might define value beyond just the underlying expenses. If lowest cost were the sole objective, then it would follow that the lowest cost vehicles, food, attorney, medical services, appliances, clothing and homes would be in the best interest of the public too. Yet the value a client wants or needs is entirely absent in the proposed rule language.

Investment and/or insurance professionals may be compensated in a number of traditional ways including up-front commissions, trailing commissions, advisory fees (assets under management) or hourly fees. All of these options are available for the clients choices for how their broker/agent/advisor is paid for their services. Full disclosure by all advisors of those compensation options along with their respective costs and benefits is in the client's best

interest.

The 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act initiated this examination or "harmonization" of the standards applied to Advisors vs. Brokers. That legislation indicates that receiving commissions is not a barrier to being able to perform a brokers duties as a fiduciary. It is not how or even what I receive in compensation that should be the focus but that the client understands how and what I get paid. Presumably she believes there is a balance of value in that arrangement or she wouldnt continue to work with me.

Unethical behavior occurs in every profession, yet in financial services it is assumed advisors generally operates in a manner that maximizes their compensation - and therefore rules are needed for that lowest common denominator. This is simply not the case. The focus of the DOL should be given to the relatively small number of complaints or egregious cases versus indciting the vast majority of advisors providing client value with full disclosure.

I urge a broader perspective than the focus on expenses and fees alone. Customers should be given full disclosure about compensation and how/whether that might effect performance. With full disclosure the consumer can make informed choices about the value they desire.