

Friday, July 10, 2015

Senator John Cornyn
HSOB- Hart Senate Office Building
Room 517
120 Constitution Avenue, NE
Washington DC 20510-4305

RE: Department of Labor Proposed Rule

Dear Senator Cornyn:

As an independent financial advisor and member of the Financial Services Institute, I am writing to express my concerns with the Department of Labor's Conflict of Interest Rule Proposal (DOL Proposal). While I agree that financial advisors and financial services firms should be required to ensure that the interests of their retirement clients come first, the DOL Proposal contains other elements that will effectively eliminate the ability of low and middle-income individuals to obtain the personalized advice they need to ensure a dignified retirement. In short, the DOL Proposal is unworkable for my clients and my small business.

Specifically, I see the following significant problems with the DOL Proposal:

1) Proposal is Based on False Assumptions: The DOL Proposal appears to be based upon certain false assumptions. For example, the DOL appears to believe that retirement investors are unprotected by the current regulatory system. However, my business is heavily regulated by the Securities and Exchange Commission, the Financial Industry Regulatory Authority and state securities regulators. My broker-dealer also routinely monitors my activity and examines my business to ensure that I am in compliance with the many rules and regulations I am subject to as a financial advisor. In addition, the DOL argues that financial advisors routinely harm their clients by directing them to high priced investment vehicles. However, Investment Company Institute research demonstrates that the opposite is true. Financial advisors tend to lead investors to funds whose expense ratios are far lower than the average expense ratio for all funds. These false assumptions cause the DOL Proposal to be poorly designed for investors, unduly burdensome and extremely costly.

2) Investors Are Not Well Served by the Proposal: The DOL Proposal's requirements demonstrate a lack of understanding of basic investor needs. The following examples will demonstrate my concerns:

- First, the DOL Proposal eliminates my ability to provide meaningful education by prohibiting me from providing investors examples of the investments available in their retirement plan that fit within the basic asset classes they should be considering. The result is that these individuals will be left to guess whether or not their investment choices have resulted in a well-diversified asset allocation.

- Second, the DOL Proposal requires IRA account holders who have not yet decided whether to use my services to sign a contract with me before I can discuss their retirement needs. This is simply unworkable because smart consumers won't sign contracts with people they haven't yet chosen to do business with.

- Finally, the DOL Proposal prohibits the use of a variety of investment products that can play a meaningful part in my client's retirement planning. I simply can't understand why the DOL would limit the tools available to financial advisors who are trying to help clients achieve a dignified retirement.

3) Reduced Access to Retirement Assistance: I entered the financial services profession because I wanted to help people achieve their financial goals. However, I can only operate my small business if I can cover my costs. Unfortunately, the DOL Proposal's Best Interest Contract Exemption requires me to

adhere to numerous very detailed, costly and difficult requirements while producing an unprecedented amount of very specific data on a point of sale, annual, and continuing basis and subjecting me to huge liability exposure. At the same time, the DOL Proposal requires financial services firms to significantly alter the compensation structure of our industry thereby reducing my margins. The result is that I will not be able to continue to advise small and mid-size clients who need retirement assistance. Without my guidance, I fear that these individuals' retirement security will be placed at risk. This is unacceptable in light of the retirement crisis facing our country.

As you can see, the DOL Proposal is based upon false assumptions, fails to appreciate investor needs and will reduce access to retirement assistance, products and services. That is why I am requesting that you contact Secretary Perez to urge him to work cooperatively with the Financial Services Institute and other industry trade organizations to develop a best interest standard that protects investors while preserving access to retirement assistance, products and services for all individuals.

Finally, I would be happy to serve as a resource as you continue to monitor developments on this issue. Feel free to reach out to me if I can be of service to you.

Sincerely,

Andrew Huber
Financial Advisor
First Command Financial Services
4614 Green Cottage Ln
Missouri City TX 77459
Email: ajhuber@firstcommand.com

Friday, July 10, 2015

Senator Ted Cruz
RSOB- Russell Senate Office Building
Room 404
2 Constitution Avenue, NE
Washington DC 20510-4306

RE: Department of Labor Proposed Rule

Dear Senator Cruz:

As an independent financial advisor and member of the Financial Services Institute, I am writing to express my concerns with the Department of Labor's Conflict of Interest Rule Proposal (DOL Proposal). While I agree that financial advisors and financial services firms should be required to ensure that the interests of their retirement clients come first, the DOL Proposal contains other elements that will effectively eliminate the ability of low and middle-income individuals to obtain the personalized advice they need to ensure a dignified retirement. In short, the DOL Proposal is unworkable for my clients and my small business.

Specifically, I see the following significant problems with the DOL Proposal:

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2) Investors Are Not Well Served by the Proposal: The DOL Proposal's requirements demonstrate a lack of understanding of basic investor needs. The following examples will demonstrate my concerns:

- First, the DOL Proposal eliminates my ability to provide meaningful education by prohibiting me from providing investors examples of the investments available in their retirement plan that fit within the basic asset classes they should be considering. The result is that these individuals will be left to guess whether or not their investment choices have resulted in a well-diversified asset allocation.

- Second, the DOL Proposal requires IRA account holders who have not yet decided whether to use my services to sign a contract with me before I can discuss their retirement needs. This is simply unworkable because smart consumers won't sign contracts with people they haven't yet chosen to do business with.

- Finally, the DOL Proposal prohibits the use of a variety of investment products that can play a meaningful part in my client's retirement planning. I simply can't understand why the DOL would limit the tools available to financial advisors who are trying to help clients achieve a dignified retirement.

3) Reduced Access to Retirement Assistance: I entered the financial services profession because I wanted to help people achieve their financial goals. However, I can only operate my small business if I can cover my costs. Unfortunately, the DOL Proposal's Best Interest Contract Exemption requires me to adhere to numerous very detailed, costly and difficult requirements while producing an unprecedented amount of very specific data on a point of sale, annual, and continuing basis and subjecting me to huge

liability exposure. At the same time, the DOL Proposal requires financial services firms to significantly alter the compensation structure of our industry thereby reducing my margins. The result is that I will not be able to continue to advise small and mid-size clients who need retirement assistance. Without my guidance, I fear that these individuals' retirement security will be placed at risk. This is unacceptable in light of the retirement crisis facing our country.

As you can see, the DOL Proposal is based upon false assumptions, fails to appreciate investor needs and will reduce access to retirement assistance, products and services. That is why I am requesting that you contact Secretary Perez to urge him to work cooperatively with the Financial Services Institute and other industry trade organizations to develop a best interest standard that protects investors while preserving access to retirement assistance, products and services for all individuals.

Finally, I would be happy to serve as a resource as you continue to monitor developments on this issue. Feel free to reach out to me if I can be of service to you.

Sincerely,

Andrew Huber
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Friday, July 10, 2015

Representative Pete G. Olson
Room 2133
RHOB- Rayburn House Office Building
50 Independence Avenue, SW
Washington DC 20515-4322

RE: Department of Labor Proposed Rule

Dear Representative Olson:

As an independent financial advisor and member of the Financial Services Institute, I am writing to express my concerns with the Department of Labor's Conflict of Interest Rule Proposal (DOL Proposal). While I agree that financial advisors and financial services firms should be required to ensure that the interests of their retirement clients come first, the DOL Proposal contains other elements that will effectively eliminate the ability of low and middle-income individuals to obtain the personalized advice they need to ensure a dignified retirement. In short, the DOL Proposal is unworkable for my clients and my small business.

Specifically, I see the following significant problems with the DOL Proposal:

1) Proposal is Based on False Assumptions: The DOL Proposal appears to be based upon certain false assumptions. For example, the DOL appears to believe that retirement investors are unprotected by the current regulatory system. However, my business is heavily regulated by the Securities and Exchange Commission, the Financial Industry Regulatory Authority and state securities regulators. My broker-dealer also routinely monitors my activity and examines my business to ensure that I am in compliance with the many rules and regulations I am subject to as a financial advisor. In addition, the DOL argues that financial advisors routinely harm their clients by directing them to high priced investment vehicles. However, Investment Company Institute research demonstrates that the opposite is true. Financial advisors tend to lead investors to funds whose expense ratios are far lower than the average expense ratio for all funds. These false assumptions cause the DOL Proposal to be poorly designed for investors, unduly burdensome and extremely costly.

2) Investors Are Not Well Served by the Proposal: The DOL Proposal's requirements demonstrate a lack of understanding of basic investor needs. The following examples will demonstrate my concerns:

- First, the DOL Proposal eliminates my ability to provide meaningful education by prohibiting me from providing investors examples of the investments available in their retirement plan that fit within the basic asset classes they should be considering. The result is that these individuals will be left to guess whether or not their investment choices have resulted in a well-diversified asset allocation.

- Second, the DOL Proposal requires IRA account holders who have not yet decided whether to use my services to sign a contract with me before I can discuss their retirement needs. This is simply unworkable because smart consumers won't sign contracts with people they haven't yet chosen to do business with.

- Finally, the DOL Proposal prohibits the use of a variety of investment products that can play a meaningful part in my client's retirement planning. I simply can't understand why the DOL would limit the tools available to financial advisors who are trying to help clients achieve a dignified retirement.

3) Reduced Access to Retirement Assistance: I entered the financial services profession because I wanted to help people achieve their financial goals. However, I can only operate my small business if I can cover my costs. Unfortunately, the DOL Proposal's Best Interest Contract Exemption requires me to adhere to numerous very detailed, costly and difficult requirements while producing an unprecedented amount of very specific data on a point of sale, annual, and continuing basis and subjecting me to huge

liability exposure. At the same time, the DOL Proposal requires financial services firms to significantly alter the compensation structure of our industry thereby reducing my margins. The result is that I will not be able to continue to advise small and mid-size clients who need retirement assistance. Without my guidance, I fear that these individuals' retirement security will be placed at risk. This is unacceptable in light of the retirement crisis facing our country.

As you can see, the DOL Proposal is based upon false assumptions, fails to appreciate investor needs and will reduce access to retirement assistance, products and services. That is why I am requesting that you contact Secretary Perez to urge him to work cooperatively with the Financial Services Institute and other industry trade organizations to develop a best interest standard that protects investors while preserving access to retirement assistance, products and services for all individuals.

Finally, I would be happy to serve as a resource as you continue to monitor developments on this issue. Feel free to reach out to me if I can be of service to you.

Sincerely,

Andrew Huber
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First Command Financial Services
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Friday, July 10, 2015

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

RE: Conflicts of Interest Rule, RIN 1210-AB32

Dear Department of Labor officials:

As an independent financial advisor, I greatly support the Department of Labor's (Department) goal of investor protection in the retirement savings marketplace. Unfortunately, the Department's proposed 'conflict of interest' rule (Proposal) attempts to achieve this goal in the wrong manner. If the Proposal is not substantively changed, it will end up hurting my clients and my small business. Therefore, I appreciate this opportunity to submit comments to the Department and hope that they are helpful in crafting a regulation that achieves the goals of investor protection without hurting investors of modest means or the small businesses, like mine, that provide these investors with high-quality retirement services.

I support a carefully-crafted, universal fiduciary standard that would be applicable to all professionals providing personalized investment advice to retail clients. This standard should apply to all products and account classes, and should be written in such a manner to preserve current business models within the financial services industry. Such a uniform standard of care should consist of three main points. First, a professional advisor should ensure that the interests of the customer come first, and any remaining conflicts must be knowingly consented to by the customer. Second, he or she should provide advice with skill, care, and diligence based upon information that is known, or should be known, about the customer's investment objectives, risk tolerance, financial situation, and other needs. Lastly, an advisor should disclose material conflicts of interest, avoid them when possible, and obtain informed customer consent to act when such conflicts cannot be reasonably avoided.

While the Department has proposed a standard of care that is similar in principle, the Proposal would only apply to retirement savings products. This would leave advisors, such as me, working under a variety of standards depending upon our registration status (investment adviser or broker-dealer) and the account type (retirement or non-retirement). I believe this will lead to confusion amongst the clients that we serve. It is because of this that I believe it is critical that any standard of care be proposed in close coordination with the securities regulators. This would allow for us, the advisors, to work effectively under one standard that we could easily explain to our clients.

In addition, the Proposal includes a variety of provisions that will make it harder for my clients and other retirees to obtain access to the advice that they so desperately need to secure a dignified retirement. Specifically, I have the following concerns:

1) Financial Advisors are Heavily Regulated: The Proposal appears to be motivated by a mistaken belief that financial advisors and the financial industry are inadequately regulated. In truth, my business is heavily regulated by multiple regulators, and my broker-dealer routinely monitors my activity and examines my business to ensure that I am in compliance with the numerous rules and regulations I am subject to as a financial advisor. I am required to follow the rules of the Securities and Exchange Commission, the Financial Industry Regulatory Authority, state securities regulators, and may be subject to an examination or inspection by these agencies at any time. These regulators, in addition to creating and enforcing rules, are also at the front line working to detect illegal activity in the retirement market and

coordinate with law enforcement to rid the industry of bad actors. This proposal, while intended to bolster the existing regulatory framework, will in fact create a more fractured and confusing environment that will unnecessarily strain the resources of securities regulators and my broker-dealer's compliance department who are best positioned to detect and remedy regulatory concerns.

2) BICE is Unworkable: While the spirit of the proposed Best Interest Contract Exemption (BICE) may be sound, as currently crafted it is largely unworkable for a variety of reasons. I entered the financial services profession because I wanted to help people achieve their financial goals. However, I can only operate my small business if I can cover my costs. The proposed BICE requires me to adhere to numerous very detailed, costly, and difficult requirements while producing an unprecedented amount of very specific data on a point of sale, annual, and continuing basis. It will also subject me to huge liability exposure. The Proposal also requires financial services firms to significantly alter the compensation structure of our industry. The result is that I will not be able to continue to advise small and mid-size clients who need retirement assistance. Without my guidance, I fear that these individuals' retirement security will be placed at risk. This is unacceptable in light of the retirement crisis facing our country. In addition these concerns, I also want to raise the following issues with the proposed BICE:

- The requirement that a customer sign the contract `pre-engagement` will create an unnecessary hurdle to clients sitting down with a financial advisor and seeking to understand how to prepare for their retirement. Although the intended purpose of BICE is to enhance their rights and protections, clients seeking advice will be reluctant to sign a contract prior to getting to know whether to work with their advisor. Any such contract should be provided and signed at the point of sale.

- Creates Private Right of Action: I am also concerned with the proposed private right of action that would be created under the contract stipulated by BICE. This right was never authorized under ERISA or any other related statute. Furthermore, significant federal and state remedies are already available to consumers who allege harm by broker-dealers and their advisors.

- Removes Important Investments from an Advisors Tool Box: I also believe that the Department's decision to ban certain products from the provisions of BICE would in fact prevent advisors from serving the best interest of some clients. While concerns regarding price transparency and revenue flows may be driving this decision, financial advisors know that not every investor has the same needs and circumstances, and being able to provide a wide array of products allows advisors to serve different types of clients.

3) Disclosure Approach is Preferable to BICE: The Department appears to have discounted the fact that improved disclosures would address many of the concerns that have led to the Proposal. Investors are able to make better choices when they are properly informed of the differences between the advice and services being offered. In order to provide investors with the information that they need, investors should receive concise consolidated disclosure documents written in plain English. These improved disclosures would ensure that consumers are better informed without the deep disruptions to the current retirement savings marketplace that would cause many retirement savers to lose access to invaluable financial advice.

4) Education Carve-Out Changes Will Hurt Retirees: The Proposal's changes to what is considered `investment education` will likely curtail the effectiveness of investor education outreach. The inclusion of decumulation in `investment education` is commendable, but the prohibition on using specific investments to demonstrate the options available for investors to create an appropriate asset allocation will lead to investors having less knowledge regarding their investment options.

5) Grandfathering Provision is Ineffective: Another concern is the Proposal's `grandfathering provision`, which will require that virtually every single account be repapered, or that financial advisors not provide further service on their client's existing retirement accounts. This type of regulation does not serve the best interests of investors. Therefore, it needs to be replaced with a more conventional grandfathering clause that is tied to the date of purchase, irrespective of continuance of service on the account.

I urge the Department to work with the industry to develop a workable best interest standard that protects investors and preserves their access to much needed retirement assistance, products and services.

Sincerely,

Andrew Huber
Financial Advisor
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