From: Jeffrey McClure [mailto:jeff@tpwc.com]
Sent: Thursday, July 16, 2015 11:36 AM
To: EBSA, E-ORI - EBSA
Cc: staff; Jacob A McClure
Subject: RIN 1210-AB32, Comment on Definition of Fiduciary; Conflict of Interest Rule-Retirement Investment Advice and Related Proposed Prohibited Transaction Exemptions
Importance: High

First, please accept my gratitude for a thorough background explanation and the obvious effort that went into making this proposed rule. Second, please count this message as an enthusiastic "YES" vote for the proposed rules.

I have been in the financial services business for thirty-three years. For the first twenty-five of those years I was primarily registered and contractually employed by broker-dealers to sell securities products. Since 1991, those broker-dealers, also contractually employed me as a branch-office manager and registered securities principal. During the vast majority of those years I was additionally employed as an investment advisory representative of the corporate, dually-registered investment advisor of those broker-dealers. In 2007 my son and I formed an independent investment advisory firm registered with the United States Securities and Exchange Commission. Two years ago we terminated our relationship with our then-current broker-dealer and began a "fee-only" professional existence. As my signature block indicates, I am licensed to use the CFP® marks and have been a licensee of the CFP Board of Standards since 1991.

My perspective on the Proposed Rules is informed by that experience. I have served in a purely sales role, including over fifteen years as the manager and supervisor of securities sales-persons, and during much of that time, carried the designation and heard the justifications for portraying myself and my employing firm as a "trusted adviser" registered as an investment adviser under the Investment Advisory Act of 1940. As a CFP "certificant" I am voluntarily subject to a weak form of fiduciary duty that specifically excludes the sales process for investment products. Sadly, that standard reflects the regular practice of most dually-registered investment advisers, both companies and their representatives.

This rule is long overdue, and from my perspective, overly accommodating to the sales forces committed to the practice of quickly and profitably converting as much of a plan participant's retirement investments into broker-dealer, investment product, and sales fees and commissions as is legal or allowed. I sat through many mandatory-attendance presentations at broker-dealer "conferences" in which the "401(k)/403(b) rollover market" was proclaimed as the gold mine of the 21st century and how critical it was to portray oneself as a "trusted adviser" in order to generate maximum commissions and awards for the sales person. I do understand the reality of the political and economic forces that govern society and the need for sales persons, but the sale of unnecessarily high-cost and high-risk investment products to members of the public who have little or no education, experience, or understanding of what they are purchasing is a clear abuse of trust.

My only concern with the new rule is that the disclosures, including the Proposed Best Interest Contract Exemption, will simply be one more form signed by the member of the public. The existing reams of disclosures, including one that typically states, "Read the prospectus carefully

prior to investing" are, in my decades of experience, almost never read by the investor. While the provision exempting those conflict of interest items and the resulting transactions from any arbitration agreement is a plus, it will take a major market decline and large losses for litigators to utilize those provisions. It is critical, in my opinion, for FINRA, the SEC, and the EBSA to actively and vigorously enforce the rules, presuming they come into force in their present form.

As an example of an area that shows little evidence of change, even in the face of the proposed rules, in my experience the education 403(b) market is dominated by astoundingly high-cost, high commission products mandated by school officials who routinely are compensated by the sales persons and organizations to a degree that would be off limits to even a registered securities salesperson with no pretense of fiduciary duty. Unless there is a means of enforcement that extends to those school officials and the organizations that sell the products, a large part of the ERISA regulated industry will continue to profit from the ignorance and naiveté of the public.

Thank you again for your time and devotion to this issue.

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