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

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General Comment

My business provides fee-based investment advisory services to small 401k plans and to individuals who have as much as $6,000,000 in assets and as little as a start-up investor. We have solutions for everyone that provide a good plan with quality options, regardless of size.

In my opinion there needs to be a fiduciary standard that replaces the current buyer beware principle of a disclosure based system. We see far too many buyers in our client base who have purchased or received proposals to purchase annuities that generate high commissions to the agents and poor results to the client. The marketing materials are highly deceptive in my opinion. One we recently analyzed for a client offered 8% interest guaranteed for 10 years and a 5.5% payout. What it didnt overtly disclose was that the 8% was simple interest and the payout did not return principal. The true internal rate of return was under 2% and the client chose not to do it. Another situation promised the first 18% of S & P upside and none of the first 10% of S & P losses annually. Upon closer inspection, the S & P index used was the P (price) index instead of the T (total return) index, where the P index has historically been over 20% lower, and the annual results were calculated monthly using the full loss exposure but capped the upside each month to generate the annual result, where the loss protection was then applied. Again, the client rejected the proposal once they understood. These are examples of what a good fiduciary standard would help customers avoid.

I am not convinced the current proposed conflict of interest regulations will accomplish the objective of avoiding this kind of misguided product sales. There are very affluent sales people on TV now who can afford to modify their techniques and keep pushing these products. Perhaps it would be better to restrict the financial product manufacturers in how they can present the merits of their products. In the mortgage industry, the APR was designed to accurately reflect the real mortgage rate after the interest rate and points are all factored into an objective calculation. Perhaps a similar standard would promote more fully disclosed financial products to the retirement investor.