



July 21, 2015

The Honorable Thomas E. Perez
United States Department of Labor
200 Constitution Ave., NW
Washington, D.C. 20210

RE: Definition of Term “Fiduciary”; Conflict of Interest Rule—Retirement Investment Advice
[RIN: 1210-AB32], 80 Federal Register 21928

Dear Secretary Perez,

On behalf of the Ohio Bankers League (“OBL”), we write to share our concerns about certain critical elements of the fiduciary rule proposed by the U.S. Department of Labor (“Department”). We agree that the interests of the client should always be put before the financial interests of a retirement advisor. We are concerned however that as written the proposed rule is not the best avenue to achieve that result. The new rule will unfortunately limit the ability of financial professionals to provide important investment support and information to their clients, thereby actually *reducing* the advice available to workers as they consider how to grow and preserve their financial nest egg.

The OBL is a non-profit trade association that represents the interests of Ohio’s commercial banks, savings banks, savings associations as well as their holding companies and affiliated organizations. The Ohio Bankers League has over 200 members, which represents the overwhelming majority of all depository institutions doing business in this state. Many of our members assist local customers with retirement planning, whether directly or through an arrangement with a third party advisor. OBL membership represents the full spectrum of FDIC insured depository institutions from small mutual savings associations owned by their depositors, community banks that are the quintessential locally owned and operated businesses, up to large regional and multistate holding companies that have several bank and non-bank affiliates and conduct business from coast to coast.

Many detailed technical concerns have already been expressed to you by the national trade groups representing financial service professionals, including the Financial Services Roundtable and the American Bankers Association. We agree with the issues raised by those trade groups and will not repeat those concerns in this comment. The OBL just wants to add our voice to the many professionals that are worried that this new interpretation will have the unintended consequence of reducing advice available to people saving for retirement. This is troubling because very few savers and investors have the financial expertise to manage the assets in defined contribution plans. Further, with the demise of traditional pension plans retirees will

be relying almost exclusively on these assets to survive during retirement. This problem is particularly acute in smaller communities in the Midwest, where fewer investment advisors are available to assist savers and investors.

We have a particular concern however with the overbroad definition of fiduciary as proposed in the rule. As currently drafted, this new definition will sweep into the impact of this rule many who do not actually provide financial advice or do not really have a direct impact on investment options. For example, merely providing education materials and an explanation of benefits information could trigger increased liability. Customers trying to make their own informed judgement use the information provided by OBL members to learn more about plan benefits and to make educated decisions about their investment opportunities. Creating liability for merely providing useful information will discourage the distribution of thoughtful materials and informed conversations between bankers and their clients about important retirement and financial planning tools.

Also, please consider that banks merely providing custody services to retirement plans make periodic valuations of the assets under custody to facilitate the operation of the plans. Providing this important information to retirement investors is a support role done in the ordinary course of business, and not in connection with a planned investment. Yet, the proposal could cause this administrative function to be considered a fiduciary activity, triggering fiduciary liability.

Finally, there is also a concern that this broader definition could have on small employers. In providing guidance or information, employers have no profit motive in an individual investment choice. With the best of intentions, employers are just trying to help employees make informed choices about retirement options. Yet, the broader definition of fiduciary could create new liability discouraging even this minimal support for employees making critical investment choices.

For the reasons stated above the Ohio Bankers League urges the Department to either withdraw the proposal or to substantially modify the rule to address the concerns raised by this letter and the national trade groups.

Respectfully submitted;

s/ Michael J Adelman

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President & CEO

s/ Jeffrey D. Quayle

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