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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

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Submitter Information

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General Comment

I tried to wade through the very dense Regulatory Impact Analysis (available at www.dol.gov/ebsa/pdf/conflictsofinterestria.pdf), but lacking a degree in both finance and governmental gibberish, I've had to default to the clearer (by comparison to the Analysis) Executive Summary. As a consumer with both a 401k and an IRA, I'm quite startled at the number of instances where less than definite words are used.

If the existing rule has proven to be so damaging to consumers, then I would expect to see hard numbers in the summary. How many consumers receive bad advice -- 10%, 35%, 65%? Instead, the summary is littered with may, might, and could; perhaps the best example is the concluding sentence: "... adviser conflicts *could* cost IRA investors as much as $410 billion over 10 years and $1 trillion over 20 years, so the *potential* additional gains to IRA investors from this proposal *could* be very large." If the gains to consumers "could be very large," then how large is that? "Could" simply indicates a possibility, not a probability and certainly not a definite result.

Additionally, earlier in the summary, in the section dealing with Fair Dealing, there is reference to "... receive no more than reasonable compensation," yet the terms "reasonable compensation" are not defined at all. What is reasonable -- 1%, 1/10 of 1%, or does the definition of "reasonable" lie with the brokers and agencies?

Perhaps this proposed Rule could benefit consumers, but it could also negatively impact consumers by driving up the cost of investment advice; what are the contingency plans for such a doomsday scenario? What is the agency's ultimate goal in proposing these Rules, and how does the agency itself benefit from these changes? (No, I don't believe that the Government is an impartial observer; the Government will benefit in some fashion.)

Just from my brief analysis of the summary, I am not convinced that the proposed Rules will be beneficial to consumers; indeed, these appear to be intended to impede private investors with the ultimate goal to make us all dependent upon Governmental pensions. Personally, I prefer to support myself through wise savings and investments, an attitude which I have seen is becoming increasingly unAmerican.