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Sent: Wednesday, November 19, 2014 11:01 PM
To: EBSA, E-ORI - EBSA
Subject: RIN 1210-AB59 (Brokerage Windows RFI)

Dear Department of Labor:

The Derivative Project, a retirement investor advocacy organization, is pleased to have the opportunity to submit comments on the Request for Information concerning Brokerage Windows, RIN 1210-AB59.

Brokerage Windows are currently the only opportunity for an employee, with proper tools and transparency, to escape the high fee and poorly performing options in their 401k plan, which as many studies have shown, are rampant today.

There is an Unhealthy Information Imbalance

Brokerage windows should continue to be allowed until fees are transparent, investment options improve and an employee is certain his employer has selected the best alternatives available for their retirement savings, at the lowest cost. As the July 2014 GAO report warned the DOL, many employers are selecting Managed Accounts for their defined contribution plans, without even verifying historical performance, prior to selection. This is not acceptable and employees need an alternative, until the GAO submits a follow-up report that the situation has dramatically changed. The brokerage window is that alternative to escape poor employer selections, recommended by conflicted investment consultants.

Financial Services Firms Have Not Complied with DOL Requests to Provide Clarity as to this Information Imbalance

The Department of Labor has mandated a "road-map to fees" in 401k plans. That has not yet occurred. Fees are impossible to decipher in 401k plans. The brokerage window is mandatory for every defined contribution plan for employees to escape the uncertain fee environment. Employees have the right to select the investment where they have complete disclosure of all fees, including portfolio turnover and knowledge that trades are not executed in dark pools, where conflicts of interest may impact bona-fide price discovery and best execution.

Fees in brokerage windows are too high, based on a brief The Derivative Project survey. Many small businesses would like to include a brokerage window option for their employees, but the large providers make the Brokerage Window prohibitively expensive for the small plan. Brokerage window costs should be bid competitively by every plan provider and their costs should be published in a transparent fashion. Large and small plans should have the ability to have cost-effective Brokerage Windows.

Advisors are Sales Personnel - Employees Cannot be Mandated to Rely on a Sales Force to Right an Information Balance

RIN 1210-AB59 seeks comment on if the Department of Labor should require employees to use an "advisor" in accessing their brokerage window to protect unsophisticated employees from purchasing something inappropriate. This is simply an argument to further intermediary fees, that most employees simply cannot afford. Further, these fees do not add value, due to the conflicts of interest.

- "Advisors" are sales personnel. They are not investment managers. They are not trained and experienced in investment management. Most are 'dual registrants' with significant conflicts of interest, disclosed in size two font, clearly indicating their first allegiance is to their employer's mandate, which is to sell more product---not what is in the best interest of the employee.
- Once employees leave their employer, they will have to take charge of their retirement nest egg. It is advisable that the employee learn how to access the best money manager(s) independently, not depend on conflicted intermediaries, at the earliest point in time. An information imbalance is never a healthy scenario in free market capitalism. Information imbalances are typically at the root of Ponzi schemes, fraud and price gouging.

Until the information imbalance as to fees and best investment selection practices is resolved, the Department of Labor must continue the use of Brokerage Windows, without an intermediary mandate.

We thank you in advance for the opportunity to submit these comments.

Sincerely,

Susan Seltzer
President
The Derivative Project