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Definition of an Investment Advice Fiduciary

Comment On: EBSA-2023-0014-0001
Retirement Security Rule: Definition of an Investment Advice Fiduciary

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Submitter Information

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General Comment

The Honorable Lisa M. Gomez
Assistant Secretary of Labor
Employee Benefits Security Administration
U. S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

RE: RIN 1210-AC02

Dear Honorable Gomez,

I am writing this letter to express my concerns over the new U.S. Department of Labor (DOL) proposed fiduciary rule that will threaten my ability as a financial professional to serve the many lower and middle-income families who are currently able to access from me and my colleagues sound, unconflicted financial advice to advance their financial and retirement security. The average customer I serve typically has accrued retirement savings accounts between \$50,000 and \$100,000. Quite frankly, fee-based advisors won't take the time necessary to assist these lower to middle income customers because honestly and sadly it isn't worth their time. Secondly, many of my customers and customers in similar economic situations can't

afford to pay fees for retirement advice. In many cases, these customers want simplicity with competent advice and recommendations which I know I and many colleagues like me provide.

As a multi-line agent and advisor, I am able to take the time to assist them with their retirement planning and savings needs without clock watch on a complimentary basis. I approach my clients and I know many advisors but the interest of customers first in all our business dealings. Trust is the key in our industry; and I along with many others value the trust and relationships with our customers.

This new rule proposes to revise the current fiduciary rule under the Employee Retirement Income Security Act (ERISA), governing the advice that financial advisors provide their clients. This proposed revision largely resurrects the failed 2016 DOL "fiduciary-only" rule that limited savers' choice of advisors and investments by imposing excessive amounts of costly red tape and duplicative administrative requirements on the investment transactions they make for their retirement.

In fact, as I write this letter, I will be heading into an appointment with a customer who is just now getting back onto his "feet." Literally this customer who is a 55-year-old single male - is recovering from a catastrophic health event which nearly bankrupted him. He is meeting with me because he can't afford a fee-based advisor. If the proposed revision is allowed to go through, this customer like millions would be left out of any retirement services. I am passionate that access to financial literacy and services shouldn't be a burden for anyone; and only for the elite who can afford it. Inflation is making things tighter for most of our lower- and middle-income families - how do they find more money in a tight budget for fee based financial advice?

Creating access to broader financial literacy and service should be the goal of the DOL. Helping to build generational wealth for lower- and middle-income families include Black and Latino retirement account owners is a personal goal for me - as I am an African American financial services professional.

Since the 2016 fiduciary rule was invalidated, regulators at the federal and state levels have adopted significant new regulations that directly address the conflicts of interest that DOL asserts it is seeking to address with its new proposed rule. The U.S. Securities and Exchange Commission (SEC) adopted Regulation Best Interest (Reg BI), which requires all broker-dealers and their registered representatives to always act in their client's best interest without putting their own interests first. In addition, more than forty states have now enacted an updated National Association of Insurance Commissioners (NAIC) model regulation that requires insurance producers to satisfy a best interest standard that aligns well with Reg BI. In addition, DOL adopted its own

new rule in 2020 that complements the federal and state regulatory regime.

Adoption of this proposed rule is both dangerous and unnecessary. It is dangerous because it will leave millions of small investors on their own in trying to achieve retirement security for themselves and their families. I believe it is unnecessary because there are already federal and state regulatory structures to protect consumers, and the DOL has provided no evidence that consumers are not being protected by the existing rules. I encourage the DOL to focus on enforcing the current laws for those few bad actors in the financial industry.

I ask that you please withdraw the proposed final regulation and proposed amendments to protect the interest of my customers and customers like them.

Sincerely,
Sean Slater
Colorado