

PUBLIC SUBMISSION

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Docket: EBSA-2023-0014
Definition of an Investment Advice Fiduciary

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

Document: 1210-AC02 comment 00321 Herring 01022024

Submitter Information

Name: Michael Herring

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,

Ms. Gomez, I am writing you to express my deep concern about the proposed "fiduciary only" rule being imposed on the relationship between a professional financial advisor & their "Main Street" client. I am currently serving on the NAIFA-Nebraska State Board as the Grassroots Chair and was very familiar with the DOL rule that proposed a similar regulation that was set aside by the 5th Circuit of Appeals Court back in 2018 saying this regulation is unconstitutional.

The bottom line is that if a financial professional is restricted to a "fiduciary only" relationship with a customer that is seeking guidance with their retirement security,

the risk will be far too great for the professional to have to charge a fee (usually an annual percentage of the assets accumulated) for services. A majority of lower to middle income families will not be able to afford these services as compared to getting access to financial advice for a one-time commission structure to set a retirement plan up for the customer. This leaves millions of families without the proper advice relating to the best investments and plans available in the market.

I feel there are adequate "consumer protection" regulations that are already in place. As a NAIFA member, we abide by our Code of Ethics that place the customer's needs before our own. The Security Exchange Commission has established "Regulation Best Interest" with the intent to also protect the best interests of the client. Finally, 40 states have passed the NAIC's Model Regulation for Annuity Sales. All these have the intent to protect the client but yet give everyone access to the proper advice of a financial professional.

This proposal is simply the next step at regulating financial advisors out-of-business. Please consider withdrawing this proposal immediately for the sake of "Main Street American Families"!

Sincerely,
Mike Herring
Nebraska