

PUBLIC SUBMISSION

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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

I say the potential impact of the Proposed Rule is much broader than the Biden Administration is letting on. They say that the rule is not clear on when fiduciary status may apply. Uncertainty in these circumstances could cause industry participants to err on the side of caution and comply with an exemption for borderline cases that would, with very limited exceptions, remove their applicability for investment advice and compel investment advice fiduciaries to rely instead on DOL's preferred prohibited transaction exemption, PTE 2020-02, for investment advice. If an entity seeks to rely on PTE 2020-02, however, a condition of that exemption is an acknowledgment of fiduciary status, which would automatically cause the entity to be a fiduciary regardless of any other circumstances.