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Definition of the Term ''Fiduciary''; Conflict of Interest Rule—Retirement Investment Advice; Notice of proposed rulemaking and withdrawal of previous proposed rule.

Comment On: EBSA-2010-0050-0204
Definition of the Term Fiduciary; Conflict of Interest Rule-Retirement Investment Advice

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General Comment

The topic of who is deemed a fiduciary, and the standard they are upheld to, is very important to the long term retirement security of this country. For too long the financial services industry has been able to offer conflicted advice, and sell products with high hidden fees, to unsuspecting individuals and plan sponsors. The end result is people's retirement benefits are syphoned away from them, slowly but surely, until they have much less to fall back on at the end of their careers than they would otherwise. The last 30yrs of high stock and bond returns masked this problem as just about all investors earned some return on the capital they put at risk. But looking forward, when bond yields are at 2% and stock valuations indicating low future returns, it will be much clearer who is swimming naked.

While high fees of investment advice providers has been making headlines in recent years (appropriately so, and we support the views against high fees that have been expressed), I feel that what hasn't come to light as much is the conflicts of interest that the fees are a result of. I have had many family members tell me, when asked how much they pay their financial advisor, answer "I don't know", "nothing", or "I can't figure it out". I don't know of another industry where it is so easy to hide the fees clients pay or the sales commissions and conflicts. When was the last time you bought a car but didn't know the price?

These observations, while anecdotal, I know are prevalent across the country. This means our industry needs to be made to disclose our fees and conflicts of interest much more clearly than we currently are. If a client is sold a fund because it has the higher sales commission, this needs to be the first thing the client is told, and additionally just how difficult and long it will take to overcome the hurdle this initial fee represents.

In the world that I imagine, a fiduciary has no conflicts of interest. And that almost by definition means that things like sales commission and other kickbacks from investment product manufacturers are all but eliminated. Those who don't meet this standard need to disclose that they don't and be require to disclose it using plain English, that is not twisted (my late father in-law had a broker that tried to convince me that even though he did not meet the fiduciary standard and had invested him in high commission, high fee, low performing products, that he was subject to an even higher standard ... disgusting).