

PUBLIC SUBMISSION

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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-2010-0050-0205

Definition of Fiduciary; Conflict of Interest Rule-Retirement Investment Advice and Related Proposed Prohibited Transaction Exemptions; Hearing and Comment Period Extension

Document: EBSA-2010-0050-DRAFT-0491

Comment on FR Doc # 2015-14921

Submitter Information

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General Comment

Dear Sir or Madam:

First, thank you for reading my comment and for all your work on this very important issue.

I fully support the proposed rule on the definition of fiduciary and conflicts of interest in retirement investment advice. For too long, financial industry professionals have been raiding the retirement accounts of middle-class investors to earn increased commissions and fees while avoiding a meaningful duty to manage the accounts entrusted to them. Numerous advertisements by financial professionals or firms offering retirement products encourage investors to trust those professionals or firms with a lifetime's worth of savings. Such a significant undertaking to manage an individual's or family's lifetime prosperity should certainly come with a commensurately high legal standard of care.

While some professionals claim that a suitability or best interests standard is sufficient, these standards are so weak as to offer little meaningful protection for retirement investors. For example, brokers may pad their fee income through churning investments in retirement accounts, particularly when brokers are compensated by selling loaded mutual funds. Brokers can hide behind a defense that all of the investments were suitable for the investors and offered "enhanced growth opportunities" or some similar fluffy argument. Investors may not even be aware that

such abusive practices are occurring, as brokers or firms often encourage investors to put their trust in the professionals.

I would also encourage you to include a provision that the customer/investor has an un-waivable right to pursue a claim for breach of the fiduciary duty in Federal court. For years, brokerages have been inserting mandatory arbitration clauses to force investors to seek relief without protections of the legal trial process. Furthermore, the industry standard arbitration is itself a conflict of interest working against investors. Brokers pay fees to the organization that hires arbitrators to hear cases against those same brokers. I would encourage you to take lightly any criticisms of the conflict-of-interest protections in the proposed rule from organizations or professionals who have incorporated conflicts of interest into their business models.