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**From:** EVAValue [mailto:EVAValue@msn.com]  
**Sent:** Friday, March 18, 2011 4:55 PM  
**To:** EBSA, E-ORI - EBSA  
**Cc:** mimohr.e.d.rita@comcast.com; Kelli Click; Sean O'Scanlon  
**Subject:** Proposed Fiduciary Regulations

18 March 2011

To The Dept. Of Labor,

Re: Proposed Fiduciary Regulations

ERISA Valuation Associates (aka Equity Valuation Associates) has been in the fee based independent valuation business since 1993. It is EVA's experienced and expert opinion that trust companies that provide investment record keeping services to retirement plans and IRAs should not be considered fiduciaries. Our reasoning is simple. These record keeping trust companies do not control or influence the selection and maintenance of the investments. Therefore they should be exempted from the proposed fiduciary regulation.

*There is* a problem in that many of the limited partnership, LLC, and closely held stock values listed on trust account statements are inaccurate. *There is* a plan and IRA funding problem due conflicts of interest, hidden fees, and inappropriate investments. That is not the fault of the record keeping trust company as custodian! It is also usually not the fault of the investor, plan administrator, and/or trustee. However, it is the fault of the management of the investments who are giving the investors, plan administrators, and trustees erroneous values which are then getting forwarded to record keeping trust companies as the custodians.

Making the record keeping trust company custodian a fiduciary and therefore responsible for the accuracy of the values and appropriateness of the investment does not solve the valuation and other investment problems, as it does not address the problem at its source - *the investment management*.

The solution is to focus the proposed DOL fiduciary regulations on the firms and individuals that give advice and sell investments to retirement plans and IRAs. The DOL needs to by-pass firms such as custodial record keeping trust companies and regulate directly these investment firms by requiring them to obtain annual independent valuations for the investments sold to any type of retirement plan or IRA. This simple straight forward requirement will greatly reduce the investment abuse that the DOL is attempting to curtail with the new proposed fiduciary regulations.

Does EVA consider itself a fiduciary? We most certainly do. This position is based on the fact that our valuations are important tools in the maintenance of the plan and IRA investments.

In summation, the Dept. of Labor needs to attack the root of the problem, - the investment firms and individuals, thus implementing a fiduciary regulation that which will be relatively easy to enforce and more affective in protecting plan and IRA participants and beneficiaries.

Please route this email within your agency as you feel appropriate.

Sincerely yours,

**John O'Scanlon**  
President

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