



March 17, 2017

Office of Regulations and Interpretations
Office of Exemption Determinations
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Re: Definition of the Term "Fiduciary" - Delay of Applicability Date, RIN 1210-AB79

Ladies and Gentlemen:

The purpose of this letter is to express continued support for the Department of Labor's (DOL's) conflict of interest rule and voice strong opposition to the proposal to delay the rule's applicability date. This rule strengthens protections for retirement savers by requiring financial advisers and their firms to provide retirement investment advice that is in their clients' best interests. Delaying implementation of these new protections would allow financial advisers and their firms to continue to engage in harmful practices that threaten the retirement security of their clients. Even according to the DOL's own analysis, this request is unjustified.

Millions of Americans are counting on their 401(k)s and IRAs, and many depend on investment professionals for advice about managing these complex retirement plans. Investors should be able to trust financial advisers to put their interests first. Unfortunately, the rules that have applied to retirement investment advice have made it too easy for some advisers to line their own pockets at the expense of retirees.

The losses that stem from such conflicted advice are significant. After a careful review of the evidence, which consistently points to a substantial failure of the market for retirement advice, the DOL estimated that IRA holders receiving conflicted investment advice can expect their investments to underperform by an average of 50 to 100 basis points per year over the next 20 years. Based on this careful review of the evidence, the DOL concluded that the underperformance associated with conflicts of interest – in the mutual funds segment alone – is likely to cost IRA investors between \$95 billion and \$189 billion over the next 10 years and between \$202 billion and \$404 billion over the next 20 years. An ERISA plan investor who rolls her retirement savings into an IRA could lose 6 to 12 and possibly as much as 23 percent of the value of her savings over 30 years of retirement by accepting advice from a conflicted financial adviser. The harm to retirement savers is far greater when you consider the full range of products and the full range of conflicts that influence advisers' investment recommendations.

The DOL rule would close the loopholes in the law that have allowed financial advisers to evade their duty to serve our best interest. It would strengthen protections for retirement savers by requiring financial advisers and their firms to provide retirement investment advice that is in our best interests. As a result, retirement savers will have the confidence that when we go to financial advisers, they are getting honest advice, instead of a sales pitch disguised as advice. Americans who've worked hard to



Americans for Financial Reform

save for retirement need and deserve these basic, common-sense protections.

Delaying implementation of these new protections would allow financial advisers and their firms to continue to engage in harmful conflicts of interest that threaten the retirement security of their hardworking clients. This creates real and tangible harm to investors. Based on the review of the cost-benefit evidence that was originally conducted by the DOL and reviewed and cleared by the Office of Information and Regulatory Affairs (OIRA) in finalizing this rule, and assuming that investments influenced by conflicts of interest during the delay period are held for some significant time, delaying this rule by 60 days would create billions of dollars in avoidable losses to investors. The proposal does not cite or support any benefits of delay that come close to counterbalancing this major harm.

If DOL were to delay the rule, it would appear to be taking the position that the interests of certain sell-side businesses in continuing to profit through their current practices should win out over retirement savers' interests in receiving fiduciary protections from the rule. This would be profoundly unjust. Such a decision to delay the rule would also make a mockery of the extensive, multi-year process of examination, comment, and study of the rule's benefits participated in by investors, including some of the undersigned organizations. The message would be that the arduous and controversial multi-year process of cost benefit analysis can simply be ignored when it comes to the implementation of a rule that creates inconveniences for some segments of the financial industry.

Retirement savers need and deserve to receive the protections of the rule without delay. The DOL should conclude that the proposed delay is unjustified and that the rule should be implemented beginning on April 10th.

Respectfully submitted,

Americans for Financial Reform
American Federation of State, County and Municipal Employees (AFSCME)
Allied Progress
Billings First Congregational Church, MT
Center for Popular Democracy
Communication Workers of America
Employment Connection, MO
Empower Missouri, MO
First Congregational Church of Webster Groves, MO
Freckmann Associates
Forward Justice, NC
Fund Democracy
Greater Yellowstone Central Labor Council, MT
Jobs with Justice
Leadership Conference on Civil and Human Rights
Main Street Alliance
MEA-MFT, MT
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SMART Local 36, MO
St. Louis Coalition of Black Trade Unionists, MO
St. Mark Hope and Peace Lutheran Church, MO
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Temple Chapel AME, MO
United Church of Christ, St. Louis Association Council, MO
Wisconsin Education Association Council, WI