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**To:** EBSA, E-ORI - EBSA  
**Subject:** RIN 1210-AB32

Ladies and Gentlemen,

I applaud the spirit and intent of the proposed rules regarding the fiduciary standard in the financial services industry. I also understand why you are getting a lot of resistance from the big industry players.

The issue at hand is the public's understanding of fiduciary obligation and who is held to that standard. The public deserves to know whether they are being served or sold by their financial advisor. Under current rules, most representatives of the commission-based brokerage and insurance industry are **dually registered**. They are licensed and registered as an insurance agent, a registered representative, **and an investment advisor representative**. According to agency law, the insurance agent and registered representative both have a legal obligation of loyalty and service to their employer or principal (not their clients), and are trained, motivated, and compensated to sell products.

An investment advisor, according to the **Investment Advisors Act of 1940**, has a legal obligation to always serve/act in the best interest of the client. As such, charging a commission on product sales creates a direct conflict with clients' interest. Clients have no way of distinguishing between advice and a pitch. The industry has perpetrated a great deception against the investing public by allowing dually registered sales reps to masquerade as advisors to build trust for the purpose closing the sale. All that is required to mitigate the conflict of interest is that the agent disclose that they are getting a commission from the sale of a product. The required disclosure doesn't include the dollar amount they are paid and is usually buried in the mountain of paperwork that nobody reads.

The majority of the investing public does not know what "fiduciary" means. However, they think their financial advisor is obligated to look out for their interest and trusts him/her to do so. They assume that whoever they decide to trust has the burden of fiduciary care. The industry marketing machine promotes this false sense of security with billions of dollars of TV and internet promotion designed to do just that.

Sales reps are indoctrinated by the industry and led to believe they are serving their clients best interest while focusing on meeting quotas and earning bonuses, because that is what is required to keep their job and move up the career ladder. The vast majority of the training received by sales reps is on building relationships by leveraging the company's brand, their credentials (IAR- Investment Advisor Representative), and their personal relationships (brother-in-law, college buddy, neighbor, church members) to build trust so that the sales rep achieves "trusted advisor" status without actually being required to perform in that capacity.

You will not resolve this issue by creating legislation to make a wolf treat its prey more fairly. I know that is a harsh analogy, and very few commissioned sales reps see themselves in this light. However, if you are dually registered and/or are an IAR selling products for a commission, you are deceiving yourself and your clients if you think the commission has no influence on your advice.

The only solution to this issue is to disallow dual registration. You are either a fee-only fiduciary or a sales rep. You can't be both. The next step is to disallow promotion and marketing that implies that a

sales rep or company selling a financial product is acting with fiduciary care and require all market participants to clearly state their legal obligation to their principal/employer and their clients in all advertising, marketing, and promotional material.

Thank you,  
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