July 21, 2015

Office of Regulations and Interpretations
Employee Benefits Security Administration
Attn: Conflict of Interest Rule, Room N-5655
U.S. Department of Labor
200 Constitution Avenue NW.
Washington, DC 20210.

Re: Proposed Rule Defining Fiduciary of an Employee Benefit Plan under the Employee Retirement Income Security Act of 1974 (ERISA) Regulatory Identifier Number: 1210–AB32

To whom it may concern:

In response to the Department of Labor's "Proposed Rule Defining Fiduciary of an Employee Benefit Plan" under the Employee Retirement Income Security Act of 1974 (ERISA) on April 20, 2015, NextCapital respectfully submits the following comments.

Americans must become increasingly self-reliant when it comes to their future retirement security—especially as defined benefit pensions are phased out. Today, there are over $14 Trillion in defined contribution and IRA assets, with more than 88 million defined contribution participants. With Americans living longer than ever before, the future retirement income gap is becoming even more severe.

Authorizing new fiduciary standards for all retirement savers is imperative for the future and modernization of the retirement industry.

While any significant change in the status-quo will undoubtedly be accompanied by "unintended consequences," it is our view that the industry is well-equipped to address changes and provide guidance to government partners.

Advice technology has historically served the needs of high-net-worth investors, but emerging digital advice offerings are; i) dramatically increasing access to scalable personal advice and, ii) making the cost of personal advice affordable to all Americans. New digital advice technologies personalize and automate advice for both large and small retirement savers with tools such as data-driven account aggregation, automated savings advice, personalized savings and retirement income forecasts, as well as automated portfolio management.

NextCapital is confident that the financial services industry will rise to the challenges of the new fiduciary standard for the retirement marketplace. As a leader in enterprise digital advice, NextCapital is observing great interest from leading financial services companies seeking to embrace the move to delivering affordable, personalized advice to all Americans saving for retirement.

NextCapital appreciates the opportunity to formally comment on this matter. If there are questions or more information is needed, I can be reached at rob@nextcapital.com.

Sincerely,

Rob Foregger
Co-Founder, NextCapital

Comments

The digital advice market is growing substantially. A recent study by A.T. Kearney reveals immediate demand for low-cost, automated investment services in the advisory services market. The percentage of total investable assets that digital advice services manage is expected to rise to 5.6% by 2020 from 0.5% today[1].

Faulty financial advice is often a result of conflict of interest, backdoor payments, and hidden fees. This costs Americans $17 billion annually[2]. Advice is already moving in the direction of modernization, however, the primary criticisms of the proposed rule are the “unintended consequences” for investors who have smaller account balances and net worth.

In reviewing the Future of Financial Advice (FOFA) legislation passed by the Australian Government, which raised financial advice to a “best interest” standard, it was determined that the number of Australians taking advantage of scaled advice would actually grow. Reports from Australia’s implementation of FOFA state that on average the price of financial advice will actually decrease as reforms facilitate a shift towards less costly scaled advice and more transparent reporting for complex advice[3].

The emergence of low-cost, automated services will directly help alleviate the concerns of decreased access to advice. In general, digital advice firms target those investors who may be underserved by traditional advisors[4]. With the increased adoption rate of new technology, access to automated financial advice will only continue to grow and ultimately benefit lower-income investors.

[1] http://www.investmentnews.com/article/20150618/FREE/150619902/most-investors-likely-to-use-robo-advice-survey
[2] https://www.mainstreet.com/article/obama-wants-to-rescue-americans-from-17-billion-of-bad-investment-advice
[3] http://ricewarner.com/media/75124/Rpt-The-financial-advice-industry-post-FoFA-2013.pdf
[4] https://fidelityinstitutional.fidelity.com/app/literature/view?itemCode=9860626&renditionType=pdf