

**From:** Ted Earl [mailto:tedearlfn@sbcglobal.net]  
**Sent:** Tuesday, July 21, 2015 3:22 PM  
**To:** EBSA, E-ORI - EBSA  
**Subject:** RIN 1210-AB32 Comments

Dear Mr. Secretary,

Your proposed rule desires to protect individuals from advisors/practices that do not act in the individual's best interests. Unfortunately, your rule fails this "best interest" test - creating an opportunity for even larger retirement account deductions, the Federal Government to compensate itself and potentially impacting the next election:

Currently, the adviser assists the individual with the rollover distribution and acts in their best interest because both benefit by retaining the maximum amount to invest for retirement. It is after this mutually beneficial step that DOL claims the adviser places his compensation before the individual's best interest through high cost investments.

1. Since, under the proposed rule, BOTH the distribution and compensation are defined as "advice" and since giving "advice" that might result in compensation could/will be considered self-serving, the proposed Rule requires that an adviser without an agreement cannot recommend a distribution action and then financially benefit from the action's management. Since on-going account management is financially more lucrative and advisers need to support their families, economic incentives for higher compensation dictate advisers will gravitate toward management and avoid making transfer recommendations. This economic incentive effectively denies poorer individuals vital advice/assistance (see below).

2. The rich can/will hire separate advisors for the distribution recommendation and account management. Denied by your rule easy access to transfer advice, poorer and less financially savvy individuals – who DOL states they want to protect - will attempt to execute the transfer recommendation themselves – reportedly using your DOL established website. How hard can it be? Experience indicates that the rollover process is complex and not easily understood by novices. Why? In attempting to execute the individual's fund transfer; each company, fund, pension, etc. has their *own legal requirements*, forms and specifications that MUST be fully completed in a precise order before the transfer occurs. Failing to complete the forms in a correct and timely manner, you MAY or may not be able to start over.

3. Since DOL claims it is protecting an individual's interests, any mistake risks placing the individual's retirement funds in danger of a substantial reduction *at the start of retirement* through higher income taxes and a higher tax bracket. For example, if one indicated a rollover and the transfer is not completed in the required 60 days, your sister Federal Agency, the IRS says the individual must forfeit 20% of their entire account for taxes. Therefore, your rule forces the already poorer individual to *start* his retirement 20% poorer and their "best interest" is sacrificed. As there is no adviser, an individual's incompetence is blamed and his retirement suffers. Naturally, there is no recourse to sue DOL for bad advice.

4. Who benefits? The Federal Government's tax revenue is enhanced. Considering the Federal budget, this rationale reveals a potential for increased revenue – possibly tainting DOL's claim it is acting totally on the individual's behalf. Further, the Federal Government (Democrats) want more tax revenue for social welfare programs. Regretfully, they can obtain their revenue by taxing **poorer** individuals, making them even poorer and perpetuating more individuals who need welfare programs.

5. How probable for this to happen? With 50,000 baby boomers retiring every day, **it only takes one** instance to happen to a Democrat or Republican constituent prior to the next election. The

Congressional and public backlash from the gray panthers will be deafening – especially when Congress is up for reelection and can do nothing to get the individual constituents taxes back. Previously, I have successfully worked with your Department (David Lurie and Susan Rees) advocating for and protecting the interests of the downtrodden. While concurring with the overall spirit, the proposed regulation's operational implementation, despite your and the President's aspirations, will not achieve the desired benefits for the American people.

Very truly yours,

Ted Earl