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Definition of the Term ''Fiduciary''; Conflict of Interest Rule—Retirement Investment Advice; Notice of proposed rulemaking and withdrawal of previous proposed rule.

Comment On: EBSA-2010-0050-0205
Definition of Fiduciary; Conflict of Interest Rule-Retirement Investment Advice and Related Proposed Prohibited Transaction Exemptions; Hearing and Comment Period Extension

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Submitter Information

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General Comment

This rule proposed by the Department of Labor to regulate financial advisers will result in no real choice for small to mid-sized investors. This rule change could adversely affect everyone who has a 401K or an IRA.

A little background:
Financial advisers are currently regulated by the Financial Industry Regulatory Authority (FINRA) which oversees the activities of brokerage firms, and their registered representatives. The Securities and Exchange Commission (SEC) regulates investment advisers and their investment adviser representatives.

The Department of Labor (DOL) administers a variety of federal labor laws to guarantee workers' rights to fair, safe, and healthy working conditions, including minimum hourly wage and overtime pay, protection against employment discrimination, and unemployment insurance. Via the ERISA law the DOL has some authority over certain pension/retirement accounts not ALL.
Does DOL have the authority to regulate this industry?

What will be the results of these proposed regulations?

The new regulations will require all financial advisers to meet fiduciary standards. Most already do. A fiduciary duty is defined as a legal duty to act solely in another party's interests. In other words they must do what is best for the client. They should recommend an investment based on its value and how it fits with the clients needs, desires, risk tolerance, etc. rather than considering the commission. The problem is Who defines (or re-defines) what is in the clients best interest?
Under NO circumstances should an un-elected bureaucrat be making this decision.

There is also the overhead and restrictions of the proposed regulations that will result in many financial advisers leaving the business:
The regulations will raise the liability exposure of the financial advisers.

The regulations will raise cost significantly due to new reporting requirements.
The regulations will reduce the options for how financial advisers are compensated.

Today, I have a choice when it comes to the financial adviser I work with, and in the products I will invest in. I can choose to pay for retirement services through a commission or a fee. I can receive guidance from a relationship with a personal financial adviser or through a web-based platform. I have access to a wide range of investment options just like other investors, whether the account is an IRA or not. I fear, however, that the DOL proposal, as currently written will restrict these choices, increase my costs and potentially jeopardize my current relationship with my financial adviser. Without my adviser, I'll be on my own.

I am urging you to slow down. No rule change is better than a bad rule change.