Thomas Perez
Secretary of Labor
200 Constitution Avenue, NW
Washington, DC. 20210

July 17, 2015

Dear Mr. Secretary:

A number of my colleagues in the 23,000 member Financial Planning Association recently met with Phillys Borzi and others in your Department to express our support of your Department's efforts to extend a fiduciary standard of care, raising the professional standards of those who interact with consumers for the purpose of providing financial advice, products and services for their retirement.

One of the outcomes of our meeting with Ms. Borzi was a commitment on our part to present your Department with examples of Financial Planners serving those with median incomes under a fiduciary standard. As you know, much of the opposition to your initiative includes the suggestion that your initiative will "harm the middle-class" by reducing its access to financial services and advice. As a Financial Planner who serves many clients that would be characterized as middle-class, please allow me to share with you why I support your initiative.

> *(Before I share my perspective as a Financial Planner serving middle-income households under a fiduciary standard, allow me to bring your attention to a second letter that I have enclosed that deals with a separate, personal matter. I would greatly appreciate your help with the second letter, as it relates to my Labor Certification request that has been languishing in the Department of Labor for approximately five years.)*

As I understand it, there are three key dimensions that enhance the experience of consumers who work with a financial professional under fiduciary (as opposed to suitability) standards of care:

> 1) Consumers can be more confident that a fiduciary framework provides greater objectivity in the advice/recommendations being rendered
>
> 2) Consumers are more likely to experience greater transparency when it comes to the compensation/distribution costs inherent in their interactions with their financial professionals
>
> 3) Consumers will be more empowered in knowing that they are receiving "per-use" services (in the form of consultations paid hourly/daily) or ongoing service that is commensurate with the ongoing compensation that consumers are aware they are paying

In my eleven years of experience of providing financial products, advice and services to consumers, I believe that market forces have led many financial intermediaries to become more objective in the service-value provided to the public. Proprietary distribution models are less prevalent than they were 10 years ago, and more financial professionals present themselves as "product-agnostic" in what they do and what they provide to their clientele. This has been encouraging. The consumer demanded greater objectivity and, to some degree, there has been progress.

However, corporate distribution interests often benefit when the inherent compensation being paid by the consumer is obfuscated in difficult to understand language (in lieu of easy-to-understand transparency) – placing consumers at a disadvantage. Moreover, vested interests also benefit from client relationships that include obfuscated compensation flows without a legal requirement for ongoing service. This manifests itself as a result of the attendant vagueness wherein the consumer infers an ongoing relationship under a suitability standard at the start of the relationship. While many financial professionals do indeed continue to provide a high degree of service under such circumstances, the lack of a fiduciary standard does not compel it, leaving the non-fiduciary with more time to distribute to additional consumers without the legal responsibility of shepherding the evolving best interests of previous clients as time goes on.

This last point is at the heart of the "take away middle-class access to financial professionals" arguments being made against the DOL initiative. Based on my experience, I do not find such arguments convincing for two primary reasons:

Firstly, based on the circumstances of the client's needs and our individual priorities in the marketplace, we are able to negotiate services required and willingness to pay. If the client's needs are relatively simple (which is most often the case for middle-income consumers), than the client and I can agree to a rate of compensation that balances what I see as their needs and their willingness to pay (ex: $250-500 for a one-time meeting, or annual meetings upon mutual agreement). At present, a typical middle-income consumer with $80,000 in a 403B retirement plan in the public or non-profit sector might already be paying $800/yr in ongoing distribution costs that are only disclosed in obscure legalese on page 97 of a prospectus that has not likely been read by the client in years, if ever. Additionally, the consumer in this circumstance may not have seen or heard from the financial professional that initially helped them with the 403B years earlier, even though said financial professional (or a successor/unnamed distribution partner) continues to receive ongoing compensation from this middle-income consumer! This is not an uncommon example under the current system. Indeed, it is endemic to the current system in which the middle-income consumer often ends up paying higher ongoing costs with little or no service to show for it.

Secondly, the arguments that I have heard from other industry groups suggesting that increased transparency and, therefore, increased professional accountability will lead to reduced access for the middle-class is based on the premise that higher professional standards will eviscerate the numbers of those serving middle-income consumers. In other words, SIFMA and others are making a scorched-earth argument that being subject to higher standards will cause many middle-income serving "advisors" to pack up and get out of the business altogether. My counter-argument is that encouraging higher professional standards will eventually elevate seaworthy boats. Additionally, the inherent nature of "best interest" can be highly subjective at a point-in-time, but given that consumers' best financial interests change over time along with ever-changing life circumstances, I believe that a framework that encourages (and creates a consumer expectation of) ongoing service creates a healthier market across the income spectrum, middle-classes included.

I sense that much of the anxiety being expressed from some financial professionals over the DOL proposal is due, at least in part, to the ramifications of imposing higher standards that will tend to make it clearer to consumers as to which financial professionals possess higher standards and which do not. At present, it is extremely difficult for even seasoned consumers to tell the difference between sophisticated, highly trained and diligent financial experts operating with rigorous processes and care from somebody who looks good in a suit and seems, at least superficially, to know what they are talking about. To the extent that the DOL's proposal encourages a clearer line of demarcation between financial professionals operating under higher standards and those operating under lower standards, the consumer experience will tend towards greater empowerment and less obfuscation. I, for one, am confident that market participants (consumers and providers) will adjust to higher standards over time.

Many middle-income consumers might be aware that they receive little or no service from the person that helped them with their retirement account years ago, but very few are aware of what they may be continuing to pay for the distribution system that is under-serving them. In the 403B example that I gave above, they might be paying 1.6% of their annual income (assuming a $50,000 annual income). Generally speaking, consumers understand that value-for-service includes a price. I spent $250 not too long ago to pay an air-conditioner repairman to service my A/C unit. Care and ongoing maintenance of one's financial future is easily worth $250-500/yr for a typical middle-income household, and in my admittedly biased view, knowledgeable financial professionals who provide that care are at least as valuable as A/C repairmen! In my experience, middle-income households that pay several hundred or even thousands of dollars a year to maintain their household appliances, cars and other costs of living are more than willing to spend 0.5-1.0% of their annual income to know that a knowledgeable professional is devoting at least a couple of hours a year focused on their best financial interests now and for their future retirement.

In closing, I am pleased to add my voice in support of the Financial Planning Coalition's support of the DOL's initiative to enhance the transparency and care afforded to all types of consumers of financial advice, products and services. The suggestions made by the Coalition to improve your initiative are reasonable and have my support. I wish you the best in overcoming the efforts of those who would scuttle your efforts to encourage a greater professionalization of how consumers are served in their financial lives.

Yours Sincerely,

Ashley O'Kurley

Ashley O'Kurley, CFP®

Miami, Florida