From: Ted Earl [mailto:tedearlfn@sbcglobal.net]
Sent: Thursday, September 24, 2015 4:06 PM
To: EBSA, E-ORI - EBSA
Subject: RIN 1210-AB32 Comments - Second Comment Period

Dear Mr. Secretary,

Admonition - A former NY State Associate Budget Director advised me that, when designing a program, you had to plan for those individuals who do not or cannot follow the design. This advice is consistent with President Obama's order to incorporate behavioral science in the design.

Current Situation – Historically, the transfer of money from a retirement account to an IRA has encountered few problems because it is in the client and the adviser's best interest to see that the maximum amount of money is timely transferred to the IRA. With few exceptions this has worked well and private recourse exists where it fails. There has never been a public outcry about access to advice and assistance.

According to DOL, a problem occurs after the maximum transfer amount is in the IRA and the adviser's investment advice does correspond with the client's best interest. To remedy this problem, DOL has proposed to link the adviser's transfer with the investment advice - believing that establishing this new linkage will leave the successful transfer history unchanged.

Applying the President's behavioral order, the compensation incentives are more lucrative for the long term money management and much lower for assisting with the transfer. Therefore, advisers will have little monetary incentive to assist clients with transfers - especially those of lesser means. This compensation behavioral bias reduces or eliminates the access to advice – especially for poorer individuals and leaves these individuals with little choice but to attempt the transfer themselves.

Lacking easy access to advice and forced by your rule to attempt it themselves, these uninformed individuals enter a process requiring exactitude of knowledge and legal language that the average person does not possess or have the ability to easily acquire in the brief transfer time spans. This opens an increased probability for transfer failures and taxation of the entire transfer amount (around 20%) by the IRS. While this would increase the Federal and State coffers, it reduces the funds individuals have to invest for retirement – just as they are beginning retirement. However, Federal and State governments do not escape unscathed. As your Proposed Rule causes these individuals to lose sufficient funds to support their retirement, they will become increasingly reliant on Federal and State welfare programs (e.g. SSI, etc.) to live. Unnecessarily increasing these programs' cost for decades.

As OMB must complete a cost benefit analysis and this rule increases the chances of failure, OMB consistent with the President's order should include all projected negative impacts - including but not limited to - costs to the individuals, Federal and State government programs and the complaints to/investigations by Congress. Additionally, since you have been advised that this may occur, OMB should project in their cost benefit calculations the costs of the defending lawsuits (individual and class action) by those adversely affected under this proposed rule.

Respectfully,

Ted Earl