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Definition of an Investment Advice Fiduciary

Comment On: EBSA-2023-0014-0001
Retirement Security Rule: Definition of an Investment Advice Fiduciary

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Submitter Information

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General Comment

I am an independent financial advisor and financial planner who provides financial planning and other services to Main Street residents throughout Southeaster CT. I have practiced for twenty years, helping Connecticut residents plan for a secure financial future. As a member of the Financial Services Institute, I am writing to express my concern with the Department of Labor's (DOL) recently proposed Retirement Security Rule. If adopted, the Proposed Rule will harm the very retirement savers it seeks to help by limiting their access to the affordable financial advice, products and services on which they rely to secure a dignified retirement.

Having a relationship with a trusted financial advisor helps people save more for retirement. I provide my clients with comprehensive financial advice and as an independent financial advisor, I can recommend products that are in their best interest. Currently, my clients can choose how to pay for that financial advice. Far from being a “junk fee,” commissions are an important way that advisors are able to serve those who may not otherwise be able to afford to work with an advisor because they have less investable assets. If this rule is finalized, I will be unable to work with smaller accounts or help lower and middle-income savers plan for retirement. This will most impact those earning below $100,000 per year.

This is a very real concern, as my typical client is not accustomed to paying upfront planning fees but is very interested in getting advice. I already apply best interest standards in everything I do and am currently able to give clients a choice of paying upfront planning fees, or more transactional solutions without having to charge them. For many this is much more practical and creates a foundation for a long-term relationship with ongoing advice as the client's situations require.

This will not be the case if this new DOL rule is implemented. It will force advisors like myself to charge large fees and will shut smaller clients out of receiving advice, which is the worst thing we could do to them, as the advice they seek is far more than simple investment guidance.

The DOL proposed a similar rule in 2016 and as a result more than 10 million smaller retirement account owners could no longer afford to work with their financial advisor. Not only did a Federal Court invalidate the 2016 Rule, but the Securities Exchange Commission (SEC) and state regulators imposed their own best interest standards. In light of the SEC’s Regulation Best Interest, the fact that more than forty states have adopted the NAIC model regulation, and DOL’s PTE 2020-02, which requires compliance with already established conduct standards, the proposed Retirement Security Rule is unnecessary.

I urge the DOL to withdraw this rulemaking to support Main Street investors, small business owners, and our community's access to crucial financial advice.
Respectfully,
Steve DeGraff, CExP