Received: December 14, 2023
Tracking No. lq5-sbqj-2tfz
Comments Due: January 02, 2024
Submission Type: API

PUBLIC SUBMISSION

Docket: EBSA-2023-0014
Definition of an Investment Advice Fiduciary

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

Document: 1210-AC02 comment 00063 Iodice 12142023

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General Comment

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The Honorable Lisa M. Gomez
Assistant Secretary of Labor
Employee Benefits Security Administration
U. S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Re: RIN 1210-AC02

Assistant Secretary Gomez:

I am writing to express my great opposition to the Department of Labor's proposed Retirement Security Rule. I recognize that your department has nothing but good intentions, but your intense and obvious dislike for and mistrust of advisors due to a few bad eggs leads you to do things that throw the baby out with the bathwater, which ends up hurting the average citizen who needs help with their retirement planning.

The advisors in our firm are dedicated to assisting American families, individuals, and small businesses with achieving financial security, which includes a secure and dignified retirement. We provide advice and create holistic financial plans that serve our clients' best interests for a secure financial future. Yet your Proposal would limit our ability to provide holistic retirement planning and the essential financial security that clients are seeking.

Imposing a fiduciary-only, fee-only model for advice would exclude low- and middle-income retirement savers who lack the required account minimums, denying them essential retirement advice. The proposal will lead to increased costs for financial advice, coupled with a reduction in product choices and a decrease in the number of available advisors. These risks are not theoretical—the Department's 2016 fiduciary regulation ("2016 Rule") caused reduced access to financial assistance for as many as 10 million accounts holding $900 billion in assets.

Your Proposal stinks of arrogance as it suggests that our work is "Junk". The service and advice we provide to our clients and their families is valued by them as indispensable. Consumer choice of transparent fees for accessing that advice is NOT a "junk fee." One size does not fit all: commission models better serve some retirement savers, while fee-based cost models better serve others. Consumers should have access to both models to choose what best serves their individual needs. The DOL somehow doesn't know that a fee-model normally costs clients more than a commission model and is therefore hurtful to many lower income savers.

Your Proposal also ignores all the new protections in place by Federal and State Regulators. The playing field has changed since 2016. The SEC, FINRA and nearly all state insurance regulators have adopted new guidance and regulations that improve consumer protections, including adopting best interest standards, and enhanced disclosures. The SEC's Regulation Best Interest has been in effect since 2019, and the NAIC Model Act for Annuities has been adopted by 40 states. What evidence do you have of a widespread problem, inefficiency, or gap in the current regulatory structure? Your Proposal is pure arrogance. You think you know better when actually you don't seem to know the truth. You cloak yourselves in high-brow language of trying to protect citizens when actually regulations like this hurt more than help.

The financial security profession currently maintains stringent qualification and licensing requirements, yet your Proposal would unnecessarily add excessively burdensome procedures aimed at addressing a few "bad actors". Instead of constantly putting out new regs, why not go after the bad actors and the companies that support them. In the end, regulation does very little to impede bad actors. You can't regulate integrity.

I urge you and the Department to withdraw the proposed final regulation and proposed amendments before you hurt the interests of America's workers, families, and retirees.

Thank you for your consideration.

Scott C Iodice