

April 17, 2017

Office of Regulations and Interpretations
Office of Exemption Determinations
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Re: Definition of the Term "Fiduciary" - Delay of Applicability Date, RIN 1210-AB79

Ladies and Gentlemen:

We, the undersigned 51 organizations, are writing to express our strong support for the Department of Labor's (DOL's) conflict of interest or "Fiduciary Duty" rule and our strong opposition to eliminating or weakening the rule. This rule strengthens protections for retirement savers by requiring financial advisers and their firms to provide retirement investment advice that is in their clients' best interests. Eliminating or weakening these new protections would allow financial advisers and their firms to continue to engage in harmful practices that threaten the retirement security of tens of millions of Americans.

The White House has issued a Presidential Memorandum asking you to reconsider the rule in light of several considerations, including possible harm to investors, disruptions to the retirement services industry, and a potential increase in litigation.

All of these considerations have already been examined intensively in the Regulatory Impact Analysis (RIA) conducted for the final fiduciary rule. Based on this careful review of the evidence, the DOL concluded that the underperformance associated with conflicts of interest in the mutual funds segment alone is likely to cost IRA investors between \$95 billion and \$189 billion over the next 10 years and between \$202 billion and \$404 billion over the next 20 years. An ERISA plan investor who rolls her retirement savings into an IRA could lose as much as 23 percent of the value of her savings over 30 years of retirement by accepting advice from a conflicted financial adviser. The harm to retirement savers is far greater when one considers the full range of products and the full range of conflicts that influence advisers' investment recommendations. In contrast to these enormous costs to investors under the current system, the costs of enforcing the rule were determined to be between \$10 and \$31.5 billion.

The claim that this rule, which is specifically designed to protect investors, will lead to investor harm is unsupported and unfounded. Millions of Americans are counting on their 401(k)s and IRAs, and many depend on investment professionals for advice about managing these complex retirement plans. We should be able to trust our financial advisers to put our interests first. Unfortunately, the rules that have applied to retirement investment advice have made it too easy for unscrupulous advisers to line their own pockets at our expense.

The notion that strengthening advisor requirements to act in the best interests of investors will

damage investors by restricting investor choice is completely misguided. Permitting advisors to engage in misleading sales pitches for investments that are not in the customer's interest benefits only the seller, not the investor. It is telling that this rule has consistently been supported by organizations representing ordinary investors, low-income investors, and minority groups, including many organizations who have signed this letter. In contrast, those opposing the rule are almost universally sell-side entities or representatives of such entities who benefit financially from the ability to steer investors into products that are not in the best interests of the customer. The nature of the lobbying that has taken place around the rule itself demonstrates that harm to investors is a specious excuse for overturning or weakening this rule.

Nor can the DOL justify revisions to the rule based on temporary market disruptions that are an inevitable result of implementing a rule of this significance. It is because conflicts of interest are so pervasive, and industry practices that encourage conflicted advice are so ingrained, that firms are being forced to change their practices. The mere presence of implementation costs or changes in the market cannot be used as a justification for overturning a rule that was clearly intended to change industry practices, and where extensive analysis has shown that the costs of such changes are dwarfed by the long-term benefits to investors.

The White House has also asked you to consider the costs of any private litigation created by the rule. Claims that the rule will expose firms to excessive litigation costs are unfounded. Firms that comply with the rule's requirements to act in customers' best interests and reduce incentives to do otherwise could reasonably expect to see their litigation costs drop. For those who would flout these rule requirements, private litigation is the major means for the enforcement of the Best Interests Contract Exemption (BICE) in the rule. In the absence of a litigation option, it can no longer be assumed that the best interest commitment will be adhered to by investment advisors. Without effective enforcement of the BICE the benefits to investors projected from the rule will be substantially reduced. Furthermore, the bulk of the costs of litigation are not a direct economic costs, but a transfer from sellers engaged in wrongdoing to investors who have been harmed by this wrongdoing.

Retirement savers need, expect, and deserve to receive the protections of this rule. Based on the considerations in the President's memo, no weakening or rollback of the final rule is justified. We urge you to stand firm for retirement savers and preserve the protections in this rule.

Respectfully submitted,

Americans for Financial Reform
American Federation of State, County and Municipal Employees (AFSCME)
American Association of University Women (AAUW)
Campaign for a Strong Colorado
Chicago Federation of Labor
Chicago Jobs Council
Citizen Action/Illinois
Consumer Action
Colorado AFL-CIO
Colorado American Federation of Teachers

Colorado Fiscal Institute
Colorado WINS
The Committee for Fiduciary Standard
Consumer Action
Consumers Union
DEMOS
Economic Policy Institute
Empower Missouri
Family Values at Work
Fund Democracy
Heartland Alliance for Human Needs & Human Rights
Illinois Asset Building Group
Interfaith Worker Justice
The Institute for College Access & Success
Jefferson City Faith Labor Alliance
Kansas City Faith Labor Alliance
Kansas City Workers Rights Board
Labor Project for Working Families
Lincoln Faith Labor Alliance
Main Street Alliance
Missouri Alliance of Retired Americans Education Fund
Missouri Jobs with Justice
NAACP
National Active and Retired Federal Employees Association (NARFE)
National Association of Social Workers (NASW)
National Council of La Raza (NCLR)
National Employment Lawyers Association
National Employment Law Project (NELP)
New Jersey Citizen Action
Northwest Side Housing Center
Progress Now Colorado
Sargent Shriver National Center on Poverty Law
Service Employees International Union, Missouri/Kansas State Council
St. Charles Faith Labor Alliance
St. Louis Faith Labor Alliance
St. Louis Workers Rights Board
ULLICO
US PIRG
Virginia Organizing
Warren Faith Labor Alliance
Woodstock Institute