IT'S TIME TO CLOSE THE RETIREMENT ADVICE LOOPHOLE

THE PROBLEM & THE IMPACT

- RETIREMENT IS MORE COMPLICATED THAN EVER – Every day in this country, hardworking American families are thinking about how they can put a little of each paycheck away for their retirement. But the financial market has changed dramatically in the last 40 years, and instead of relying on traditional pension plans, most Americans now have to make their own investment decisions for their 401(k) or IRA, and these choices are more complicated than ever before.
- OUT OF DATE PROTECTIONS – To protect Americans' retirement savings, in 1974 Congress passed the Employee Retirement Income Security Act (ERISA), which required those who provide retirement advice to put their client's best interests first. But the rules applying that standard had huge loopholes – and they're still on the books 40 years later. They matter now because so much has changed in the way Americans save for retirement.
- CONFLICTED ADVICE – As a result, millions of Americans today are denied the protections of ERISA and are receiving advice that does not put their best interests first. Financial "advisers" at brokers and other firms recommend retirement investments to their clients that pay lucrative commissions to the adviser but expose the client to excessive costs, poor performance, and even unnecessary risks.
- DRAINING RETIREMENT SAVINGS – Studies show that American workers and retirees are losing tens or even hundreds of thousands of dollars in retirement income when they receive conflicted advice. A recent Council of Economic Advisers study conservatively estimates the cumulative losses at $17 billion a year.

THE SOLUTION

- CLOSING LOOPHOLES – The DOL has worked hard to develop an updated rule to close the loopholes so that everyone giving retirement investment advice must comply with the fiduciary duty. The rule will make sure that it applies across the board to all investment advice, as Congress intended when it passed ERISA. All Americans – whether they save a lot or a little – will benefit from a financial adviser that puts their best interests first.
- BROAD SUPPORT – On February 23, 2015, President Obama publicly announced his strong support for the DOL's effort to update its fiduciary duty rule. An ever-expanding group of labor, civil rights, and consumer protection organizations are supporting the rule so that more Americans can retire with dignity.

THE MISLEADING ATTACKS

- UNDER THREAT – The rule is now under review at the Office of Management and Budget, the first step in the rulemaking process. It can then be issued publicly so that everyone has a chance to evaluate it and offer comments. However, the financial services industry has mounted such a fierce opposition that the rule is in danger of being derailed before it even sees the light of day.
- "SMALL SAVERS WILL LOSE ACCESS TO ADVICE BECAUSE IT WILL COST TOO MUCH" – This claim has no basis. Over time, the cost of conflicted advice far outweighs the fees that any fiduciary adviser might charge. Actually, it is those with modest savings who can least afford the losses from bad investment advice. In any case, the DOL has repeatedly said that it will not prevent the commission-based compensation that many brokers rely on. And if some brokers refuse to serve their clients because they have to put their best interests first, then other advisers will be happy to do so under the fiduciary standard and at affordable costs.
- "WAIT FOR THE SEC" – This is simply a delay tactic. Congress intended the DOL to administer special protections under ERISA for the benefit of all workers and retirees, separate from the securities laws. Moreover, the SEC only regulates securities, whereas the DOL is tasked with protecting a wide range of plan assets, including insurance products. The DOL has coordinated with the SEC to make sure that the new rule does not conflict with any SEC rules and regulations.

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