

Ask Congress to Stop Rules that Will Raise the Cost of Retirement Saving

Most Americans are dangerously unprepared for retirement. A recent survey by the *Employee Benefits Research Institute* concluded that “*worker savings remain low and only a minority appear to be taking basic steps needed to prepare for retirement.*” With a retirement crisis looming, it is important that leaders in Washington take steps to help. Unfortunately, the Department of Labor (DOL) has proposed a new rule that will raise the cost of saving for retirement, reduce access to financial professionals and limit the choices retirement savers have today. Before this rule is finalized, it is critical that Congress intervene.

THE DOL'S RULE

On April 14, 2015, the DOL released for public comment a regulation that would expand the number of financial advisers who are considered fiduciaries when offering retirement investment advice. The proposal will put in place new restrictions on what financial professionals can say, sell and receive in compensation when working with investors who have Individual Retirement Accounts (IRAs) and certain other retirement plans.

The DOL says its rule is designed to make sure financial professionals give advice that is always in their clients' best interest. That *sounds* like a good goal, but the DOL's approach to achieving it is wrong. The proposed rule will limit choices and raise the cost of personal investment advice so that only the wealthiest Americans can afford it.

A BETTER WAY

Importantly, there is wide agreement with the DOL's goal: creating a best interest standard. The fight is over how the DOL is trying to do it. Congress needs to lead the way and make sure any best interest standard that goes into affect does not do more harm the good. Consumer protection is important, but the price of new protections cannot be that some Americans get no face-to-face help at all.

FLAWS IN THE DOL'S APPROACH

Eliminates Investor Choices. Today an IRA investor can work with an adviser of their choice. The advisor can be paid any number of ways, including through commissions or fees. If the DOL moves forward, commission-based advice for IRAs will be very hard to find as it is nearly impossible to offer under the rule's conditions. For investors with large sums (\$100,000+), fee-based advisers will fill the void. For savers with smaller balance IRAs, however, this is not the case, as they do not meet most fee-based advisers' account minimums. Investors who rely on commission-based professionals today, including small business owners who offer their employees workplace IRAs, will likely see their relationship severed under this rule.

Reduces Access to Financial Professionals. The value of working with a financial professional is clear. The research firm Cirano found that savers who work with a financial professional had 58% more in assets after five years than savers who invested alone. Unfortunately, the DOL's rule places new, unworkable conditions on what professionals can say and receive in compensation when dealing with IRA investors. As a result, many professionals that serve savers with small account balances will leave the market and no longer be an option for small savers.

Raises Costs. Costs for retirement advice, particularly for IRA advice, will go up under this rule due to a number of factors. First, costs will go up for some investors because fee-based advisers are more expensive than the commission-based advisers they use now. Second, the DOL rule places tremendous new compliance and liability requirements on financial professionals. These requirements will increase advisers' cost of doing business, and such costs are almost always passed on to consumers.

FACTS ABOUT THE DOL'S RULE

THE IMPACT OF THIS RULE WILL BE FAR-REACHING

In a 2011 study of IRA holders by *Oliver Wyman*, half of investors with IRAs had less than \$25,000 in their accounts. Of these small IRAs, 90 percent were opened using a commission-based adviser. If the DOL makes it impossible for commission-based professionals to help with IRAs, these small savers will lose access to the professionals they have relied on. [Oliver Wyman Study, <http://www.dol.gov/ebsa/pdf/1210-AB32-PH060.pdf>]

FEE-BASED ADVISERS & INTERNET ROBO-ADVISORS ARE NOT FOR EVERYONE

The DOL has tried to assure the public that there are new technologies on the Internet, as well as new business models from fee-based advisers, that are ready to fill the void if commission-based advisers do leave the market. This statement ignores the reality that not everyone is comfortable seeking help on the Internet. It also does nothing to satisfy investors who like the professionals they work with today but will no longer be allowed to work with if the rule is finalized. Finally, fee-based advice can be more expensive and require investors to pay for services they do not want or need. In 2011, the Securities and Exchange Commission (SEC) published a study that determined that most middle-income IRA savers benefit more from commission-based accounts than from the annual advisory fee model because they “buy and hold” and do not require frequent trading or activity. [SEC Study on Broker Dealers, <http://www.sec.gov/news/studies/2011/913studyfinal.pdf>]

SMALL BUSINESSES WILL FIND IT HARDER TO OFFER THEIR EMPLOYEE PLANS

The rule makes it harder for small business to offer retirement plans. Small business owners often seek the help of commission-based advisers to set up workplace plans for their employees as it reduces their on-going costs. If the rule is approved, commission-based advisers will no longer be able to assist small businesses in setting up their plans. Business owners will face increased costs and new barriers to helping their employees. [National Federation of Business, <http://www.dol.gov/ebsa/pdf/1210-AB32-2-00039.pdf>]

THE DOL RULE ALLOWS COMMISSIONS IN THEORY BUT NOT IN REALITY

It is technically true that the DOL rule includes a series of conditions under which advisers can still use commissions. The DOL calls it their BICE exemption. The BICE is hundreds of pages long. The industry has concluded that the BICE is not workable, and therefore they will have to stop offering commission-based advice if the rule is implemented. [FSI, http://www.financialservices.org/uploadedFiles/FSI/About_Us/fsi_unworkable_06-19-15.pdf]

SIMILAR RULE IN BRITAIN CREATED AN 'ADVICE GAP' WHERE ONLY THE WEALTHY GET HELP

In 2010, Great Britain implemented a rule that banned financial professionals from working under commissions. The result has been the creation of an “advice gap” where wealthy consumers are able to get fee-based advice but investors with small balances found themselves locked out. The *Financial Times* recently reported that “consumers now need an average of £806,000 to invest to access advice from a private client wealth manager, up 48 per cent from a year ago.” [Financial Times, <http://www.ft.com/cms/s/0/a5c19f24-15c4-11e5-be54-00144feabdc0.html#axzz3dd2kjJDN>]

THE RULE COULD HAVE A DISPARATE IMPACT

PEW data suggests that Hispanic households have 53 percent less savings in retirement products than Whites. African Americans have 62 percent less. In 2013, the Congressional Black Caucus wrote a letter to the DOL stating “[any rule] could cause IRA services to be unattainable by many retirement savers in the

African American community.” [Wealth Gap to Record Levels, PEW, <http://www.pewsocialtrends.org/2011/07/26/wealth-gaps-rise-to-record-highs-between-whites-blacks-hispanics>; InvestmentNews, <http://www.investmentnews.com/article/20130327/FREE/130329944>]