## DOL to Re-Propose Rule on Definition of a Fiduciary

WASHINGTON, DC, September 19, 2011 -- The U.S. Department of Labor's Employee Benefits Security Administration will re-propose its rule on the definition of a fiduciary. Consistent with the president's January executive order on regulation, the re-proposal is designed to inform judgments, ensure an open exchange of views and protect consumers while avoiding unjustified costs and burdens. When finalized, this important consumer protection initiative will safeguard workers who are saving for retirement as well as the businesses that provide retirement plans to America's working men and women. The decision to re-propose is in part a response to requests from the public, including members of Congress, that the agency allow an opportunity for more input on the rule.

"We have said all along that we will take the time to get this right to ensure that we provide the strongest possible protections to business owners and retirement savers in plans and IRAs," said EBSA Assistant Secretary Phyllis C. Borzi. "Investment advisers shouldn't be able to steer retirees, workers, small businesses and others into investments that benefit the advisers at the expense of their clients. The consumer's retirement security must come first."

Today's decision to re-propose means that this important consumer protection initiative will benefit from additional input, review and consideration. The agency agrees with stakeholders and lawmakers that more public input and greater research will strengthen the rule. This extended input will supplement more than 260 written public comments already received, as well as two days of open hearings and more than three dozen individual meetings with interested parties held by the agency.

Consistent with the president's executive order, the extended rulemaking process also will ensure that the public receives a full opportunity to review the agency's updated economic analysis and revisions of the rule. EBSA will continue to coordinate closely with the Securities and Exchange Commission and the Commodities Futures Trading Commission to ensure that this effort is harmonized with other ongoing rulemakings.

Specifically, the agency anticipates revising provisions of the rule including, but not restricted to, clarifying that fiduciary advice is limited to individualized advice directed to specific parties, responding to concerns about the application of the regulation to routine appraisals and clarifying the limits of the rule's application to arm's length commercial transactions, such as swap transactions.

Also anticipated are exemptions addressing concerns about the impact of the new regulation on the current fee practices of brokers and advisers, and clarifying the continued applicability of exemptions that have long been in existence that allow brokers to receive commissions in connection with mutual funds, stocks and insurance products. The agency will carefully craft new or amended exemptions that can best preserve beneficial fee practices, while at the same time protecting plan participants and individual retirement account owners from abusive practices and conflicted advice.

The agency is seeking to amend a 1975 regulation, which defines when a person providing investment advice becomes a fiduciary under the Employee Retirement Income Security Act, in order to adapt the rule to the current retirement marketplace. The proposal's goal is to ensure that potential conflicts of interest among advisers are not allowed to compromise the quality of investment advice that millions of American workers rely on, so they can retire with the dignity that they have worked hard to achieve.

The new proposed rule is expected to be issued in early 2012. Learn more about the importance of providing protections for retirement savers by visiting EBSA's website at http://www.dol.gov/ebsa/regs/cmt-1210-AB32.html.

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