

Administration of Donald J. Trump, 2017

Memorandum on the Fiduciary Duty Rule

February 3, 2017

Memorandum for the Secretary of Labor

Subject: Fiduciary Duty Rule

One of the priorities of my Administration is to empower Americans to make their own financial decisions, to facilitate their ability to save for retirement and build the individual wealth necessary to afford typical lifetime expenses, such as buying a home and paying for college, and to withstand unexpected financial emergencies.

The Department of Labor's (Department) final rule entitled, Definition of the Term "Fiduciary"; Conflict of Interest Rule—Retirement Investment Advice, 81 *Fed. Reg.* 20946 (April 8, 2016) (Fiduciary Duty Rule or Rule), may significantly alter the manner in which Americans can receive financial advice, and may not be consistent with the policies of my Administration.

Accordingly, by the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct the following:

Section 1. Department of Labor Review of Fiduciary Duty Rule. (a) You are directed to examine the Fiduciary Duty Rule to determine whether it may adversely affect the ability of Americans to gain access to retirement information and financial advice. As part of this examination, you shall prepare an updated economic and legal analysis concerning the likely impact of the Fiduciary Duty Rule, which shall consider, among other things, the following:

- (i) Whether the anticipated applicability of the Fiduciary Duty Rule has harmed or is likely to harm investors due to a reduction of Americans' access to certain retirement savings offerings, retirement product structures, retirement savings information, or related financial advice;
- (ii) Whether the anticipated applicability of the Fiduciary Duty Rule has resulted in dislocations or disruptions within the retirement services industry that may adversely affect investors or retirees; and
- (iii) Whether the Fiduciary Duty Rule is likely to cause an increase in litigation, and an increase in the prices that investors and retirees must pay to gain access to retirement services.

(b) If you make an affirmative determination as to any of the considerations identified in subsection (a)—or if you conclude for any other reason after appropriate review that the Fiduciary Duty Rule is inconsistent with the priority identified earlier in this memorandum—then you shall publish for notice and comment a proposed rule rescinding or revising the Rule, as appropriate and as consistent with law.

Sec. 2. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) You are hereby authorized and directed to publish this memorandum in the *Federal Register*.

DONALD J. TRUMP

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NOTE: This memorandum was published in the *Federal Register* on February 7.

Categories: Communications to Federal Agencies : Department of Labor Fiduciary Duty Rule, memorandum on review.

Subjects: Labor, Department of : Fiduciary Duty Rule, review; Social Security and retirement : Retirement accounts :: Financial advisers, fiduciary responsibility.

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