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*America's Low-Cost 401(k)<sup>SM</sup>*

July 15, 2015

Office of Regulations and Interpretations  
US Department of Labor  
Employee Benefits Security Administration  
Room N-5655  
200 Constitution Ave., NW  
Washington DC 20210

RE: RIN 1210-AB32; Conflict of Interest Proposed Rule

To Whom It May Concern:

Employee Fiduciary, LLC (“Employee Fiduciary”) is a low-cost retirement plan service provider. Founded in 2004, we provide recordkeeping and Third-Party Administration (TPA) services to more than 2,500 companies nationwide. We advocate fee transparency and believe that every dollar spent in fees deserves a measurable return on investment. We welcome the opportunity to provide our insights regarding your proposed “Fiduciary Rule.”

#### Our Position is Simple – A Clean Fiduciary Rule is in the Best Interest of Investors

Employee Fiduciary believes all financial advisors who provide investment advice to retirement plans should be subject to a fiduciary (conflict-free) standard of care. We want a “clean” fiduciary standard for retirement plan advice – something more like the 2010 fiduciary proposal. Carve outs, like the “best interest contract exemption”, will most likely increase participant expenses and potential plan sponsor liability without a commensurate return in value.

#### Fear Mongering by Fiduciary Standard Critics is Unfounded

Critics of the Fiduciary Rule argue it will make investment advice too costly for many retirement plans. Fortunately, this concern can be easily rebutted by evaluating the fees charged by financial advisors already subject to a fiduciary standard. Compare their fees – the data is out there - to fees charged by non-fiduciary brokers and insurance agents. Bottom line, fiduciaries already complying with underlying standards compare favorably with industry averages for non-fiduciaries. A clean Fiduciary Rule will allow more low-cost competition to flourish.

#### The Data

As a retirement plan recordkeeper, our firm works with hundreds of financial advisors nationwide. All of these advisors are fiduciaries under the Investment Advisers Act of 1940, making them fiduciaries under ERISA.

In August of 2014, we completed a study where investment advisor fees for 385 plans that pay advisor fees from plan assets were evaluated. The following table summarizes the findings of our study:

Plan assets = \$0-\$250,000 (90 plans)	
Average Plan Assets	\$101,328.93
Average participant count	24
Range	0.25% - 1.50%
Average	0.82%
Median	1.00%
Plan assets = \$250,001-\$1,000,000 (160 plans)	
Average Plan Assets	\$583,331.26
Average participant count	27
Range	0.20% - 1.20%
Average	0.75%
Median	0.75%
Plan assets = \$1,000,001+ (135 plans)	
Average Plan Assets	\$2,725,171.20
Average participant count	25
Range	0.10% - 1.00%
Average	0.54%
Median	0.50%

### Comparing Financial Advisor Fees under a “Bundled” Arrangement

Employee Fiduciary provides custody, recordkeeping, and administration (plan document, testing, Form 5500) to retirement plans. Financial advisors ally with service providers like Employee Fiduciary to deliver “bundled” (complete) retirement plan solutions to plan sponsors. When evaluating financial advisor fees, sponsors should do so within the context of the total fees charged under the bundled arrangement. By adding financial advisor fees from the prior table to Employee Fiduciary fees, average total plan fees can be determined:

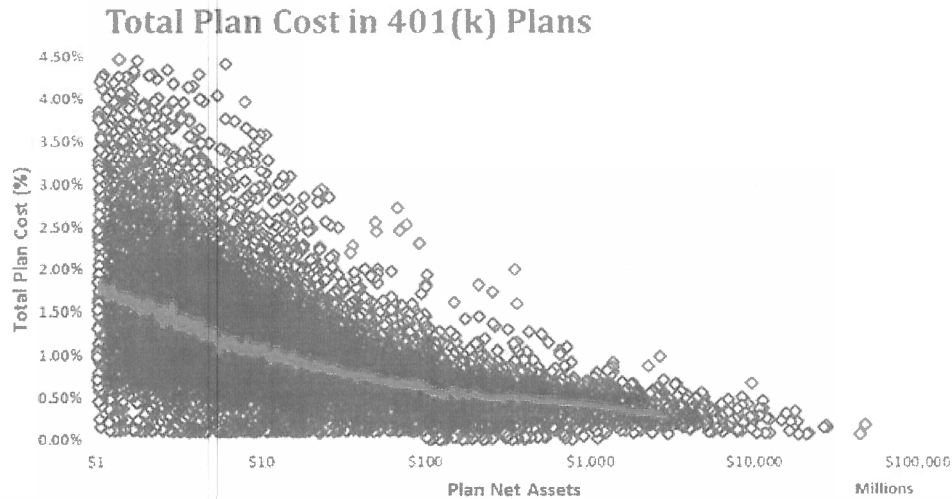
Plan assets = \$0-\$250,000 (90 plans)	
Average Plan Assets	\$101,328.93
Average participant count	24
Employee Fiduciary Fees*	\$1,581.06
Advisor Fees*	\$830.90
Total Fees*	\$2,411.96
Percentage of Assets*	2.38%
Plan assets = \$250,001-\$1,000,000 (160 plans)	
Average Plan Assets	\$583,331.26
Average participant count	27
Employee Fiduciary Fees*	\$1,966.67
Advisor Fees*	\$4,374.98
Total Fees*	\$6,341.65
Percentage of Assets*	1.09%
Plan assets = \$1,000,001+ (135 plans)	
Average Plan Assets	\$2,725,171.20
Average participant count	25
Employee Fiduciary Fees*	\$3,680.14
Advisor Fees*	\$14,715.92
Total Fees*	\$18,396.06
Percentage of Assets*	0.68%

\*Based on average plan assets and participant count.

These figures do not include investment expense ratios. That said, most of the financial advisors that partner with Employee Fiduciary use low cost investments like index funds and ETFs in their menus.

How do these fees compare with the retirement plan industry?

BrightScope is a leading provider of retirement plan ratings and investment analytics to participants, plan sponsors, asset managers, and advisors. Earlier this year, they released the following chart that summarizes retirement plan fee information from their database:



While plans under \$1M are not represented by this chart, you can see the glide path for retirement plan fees. Employee Fiduciary clients that use a fiduciary financial advisor do not pay more. In fact, most often, they pay less.

The Data Speaks for Itself – Plans with a Fiduciary Financial Advisor Do Not Pay More

Fiduciary Rule critics say fiduciary-grade investment advice costs more than conflicted advice and too many participants won't be able to afford it. This is a red herring. We have the data to prove it. Fiduciary-grade advice is not cost prohibitive. And if conflict-free advice does not cost more, why shouldn't all retirement plan financial advisors be obligated to deliver it?

Thank you again for the opportunity to comment on this important matter. Please contact me at (727) 324-4004 if you have any comments or questions. We very much appreciate your time and consideration.

Regards,

Eric C. Droblyen, ERPA, CPC, QPA  
President  
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