Press Release

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WLF Calls on DOL to Withdraw Overly Expansive and Unconstitutional Fiduciary Rule

(In re: Fiduciary Rule)

"Rather than increasing access to valuable investment education and expanding consumer choice, this rule will make it more difficult for America's workers and retirees to receive quality advice about their investment options."
—Cory Andrews, WLF Senior Litigation Counsel

WASHINGTON, DC—In response to the Department of Labor's invitation for feedback on the agency's new definition of "fiduciary" in its Conflict of Interest Rule—better known as the "Fiduciary Rule"—Washington Legal Foundation filed comments today calling for the rule to be withdrawn in its entirety. WLF's comments focus on the lack of discretionary authority DOL has in redefining the scope of "investment advice" under federal law.

The Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code identify just three ways a person can become a fiduciary. DOL's new definition expands "fiduciary" to effectively include broker-dealers, their registered representatives, insurance companies, and their commission-based sales agents, subjecting all of these persons to federal conflict-of-interest duties for the first time.

WLF's comments argue that sweeping all of these people under the umbrella of DOL's new definition distorts the meaning of "investment advice" and contradicts 40 years of statutory interpretation and common law understanding.

The Fiduciary Rule also oversteps First Amendment protections of free speech. As outlined in WLF's comments, the rule cannot withstand either strict or intermediate levels of scrutiny required by a regulation that constricts speech.

Celebrating its 40th year, WLF is America's premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

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