

Good morning. Thank you for the opportunity to testify today. My name is Patrick Mahoney. I am the CEO of the Financial Planning Association, or FPA. FPA is a 501(c)(6) trade association and the leading Membership organization for CERTIFIED FINANCIAL PLANNER™ professionals and those engaged in the financial planning process. We represent and support over 17,000 Members and 79 state and local chapters nationwide.

FPA's core Members are CERTIFIED FINANCIAL PLANNER™ professionals, who pride themselves on being held to high standards of professional competence, ethical conduct, and clear, complete disclosure when serving their clients.

Notably, our Core Members, as CFP® professionals, are required to act in the best interest of their clients at all times when providing financial advice. So, it's pertinent for me to note that the majority of FPA's Members, by virtue of holding the CFP® designation, are already voluntarily committing to act in the best interest of their clients under CFP Board's fiduciary standard.

To that end, FPA believes all consumers are deserving of objective, personalized financial advice that is in their best interest, and we share the Department's concern that many consumers lack understanding of how the financial industry is regulated and therefore may be challenged to discern among professionals who are legally required to act in their best interest – putting themselves at risk of being taken advantage of by individuals who may not adhere to the high standards to which our CFP® professional Members comport.

We know the Department has worked tirelessly over many years to find a workable solution to its concerns regarding the security of retirement savers. At the same time, our Members are also keenly aware of the complexity of the already existing state and federal laws governing various aspects of the financial planning profession and conflicting interpretations of the term "fiduciary" among various agencies and regulators. This complexity forms the basis of the concerns and requests for clarification we want to share with you today.

Others have already expressed concern with the short comment period; however, we equally share concerns regarding the proposed 60-day implementation period.

This morning, I seek to call your attention to the fact that our Members range from single-planner solo practitioners, to business owners, to mid-sized shops, to financial planners working with large firms across our Nation. Many of our Members are dually-registered and carry multiple licenses to meet their clients' needs and may operate as either independent contractors or employees. Members in these varying categories are going to experience different burdens in implementing this proposed rule. They will require significantly more time to review and fully understand any final rule proposal, which must be considered in light of all other existing regulatory obligations at play in our industry.

For these reasons, a two-month implementation period following any Final Rule is simply not enough time for those who might, for example, need to review and re-write policies and procedures or update their disclosure documents and client agreements – especially if they are small businesses or single-planner operators who lack in-house counsel and have significantly fewer resources to help them understand new requirements and come into compliance. We respectfully encourage the Department to consider an extension of the 60-day effective date and request a commitment from the Department to implement any final proposal using a phase-in approach with education rather than punitive enforcement. For the regulated community to be successful in complying with any new requirements and changes to their regulatory obligations, there must first be clarity and mutual industry wide understanding of the proposal – as well as sufficient time to implement any necessary changes.

We also respectfully request that the Department provide more details and clarity around how compliance with existing fiduciary standards and best interest obligations already in place under other agencies' regulatory schemes will or will not ensure compliance with the Department's Proposed Rule. While the Department mentions many times its effort to harmonize the Proposed Rule with existing industry regulations, it remains unclear how these competing frameworks will interact in practice.

For a better understanding in advance of enforcement of any final rule and provide greater clarity for our Members and the industry as a whole, we respectfully request that the Department provide clear implementation guidance and compliance tools, such as a succinct list of new documentation requirements, turn-key forms and templates as well as FAQs ahead of, or along with, any Final Rule.

At a minimum, this guidance should identify where compliance with existing regulatory requirements will satisfy the Department's proposed requirements and, more importantly, where financial professionals are going to need to take steps beyond seeking to comply with their existing regulatory obligations.

Due to the fact FPA has a strong interest in protecting our Members from inconsistent regulation and that the Department shares jurisdiction of the retirement plan industry with both state and federal securities and insurance regulators, we strongly encourage the Department to work closely with the SEC, the NAIC and other critically relevant agencies who – combined – are best-suited to provide effective, clear standards for consumer protection while avoiding excessive compliance burdens. Undoubtedly, coordinating efforts among regulators will help to ensure consistency – not just for the industry – but for consumers who are negatively impacted by the plethora of complexity that is our industry's landscape.

Another concern FPA has is how compliance costs may impact consumer access to advice that our Members recognize consumers so desperately need and want. Notwithstanding FPA's strong belief that consumers would benefit from objective advice, we would be remiss to turn a blind eye to the industry's concerns that even the more narrowed current proposal may increase costs so as to inadvertently decrease Americans' access to much needed advice – which would only create a new problem for Americans. What is missing from the proposal's current timeline is adequate time to determine if such concerns remain valid.

Indeed, inasmuch as the regulatory landscape – for both the securities and insurance industry – has drastically changed since the Department's former proposals, it does seem axiomatic that the Department and the industry would benefit from RE-examining the impact analyses that pre-dated the new best interest standards we now have in force as we sit here today.

Finally, I want to address DOL's request for input related to use of various titles and how the use of a title may impact a consumers' assumption of a trusted relationship and retirement advice that is in their best interest.

Many of our Members view their role as financial planners as a vocation to which they are called to serve their fellow citizens. Everywhere I go, every FPA chapter I visit, it comes up time and time again from our Members — they tell me: I'm a CERTIFIED FINANCIAL PLANNER™ professional. You can look me up online and verify my credentials and see that I am required to act as a fiduciary under CFP Board's Code and Standards.

BUT, that person down the street, who has no financial planning education or experience – and can only offer insurance products as an example – they call themselves a financial planner as well.

So, FPA does agree titles can and do mean something and can often be misleading to consumers, which is why we applaud the Department for recognizing this issue; and, we look forward to providing additional input as part of our comment letter.

I want to thank the Department, again, for this opportunity to testify.

Although our larger concerns raised today are around the short implementation timeframes at issue, and the need for clear guidance and compliance tools, FPA certainly supports measures that enhance investor protection – provided they are understandable by our Members, workable, and will not impede consumer access to products and services that are consistent with retirement savers' best interests.

FPA's CFP® professional Members stand ready to serve retirement savers under a standard that puts their clients' interests – and all American Retirement Savers' interests – first. We look forward to continuing to analyze the proposal to ensure it aligns with their ability to continue to do so.