Opening Statement of Dean Harman, CFP ®

Good morning, Mr. Chairman, Ranking Member Polis, and members of the Subcommittee. I am Dean Harman, Founder and Managing Director of Harman Wealth Management in The Woodlands, Texas. I am here representing the Financial Services Institute. FSI advocates on behalf of independent financial advisors and independent financial services firms. FSI is a strong supporter of a uniform fiduciary standard. But unfortunately, the Department of Labor proposal is unworkable, complex, and costly. Let me make it plain, this proposal will harm retirement investors.

Let me start by sharing one of the ways that this proposal is unworkable. For a client to be able to pay for my services using a commission model, my firm would have to comply with the requirements of the Best Interest Contract Exemption, known as BICE. BICE requires that we give clients an estimate of all investment costs for one-, five-, and ten-year periods. In order to do this, I would need to predict investment performance. This will put me in direct conflict with SEC and FINRA rules. These projections may also create unrealistic expectations for investors.

The proposal is also too complex. For example, BICE requires that firms maintain a machine readable public website and update it quarterly. This website would disclose compensation received by the advisor, the firm, and any affiliates for every investment product sold. In the independent model, financial advisors have access to a wide variety of investment options. All of these investment products have unique pricing structures. Even a single mutual fund family may offer 500 or more versions of its funds. Compiling, presenting, and maintaining the required internet disclosures will be a massive undertaking. The complexity of the project could lead to inadvertent errors which may result in litigation. More importantly, the complexity may confuse investors and discourage them from saving for retirement.

This proposal is also just too costly for investors seeking retirement services. They may encounter high costs as financial advisors are faced with a mountain of regulatory burdens that lead advisors to institute, or raise, asset minimums on retirement accounts. Because of this, investors of moderate means will find it difficult to gain access to valuable retirement advice and products. I do not want to turn away a potential client who needs my advice, but that will be the consequence of this proposal.

That last point is so important. Let me give you an example from my own practice. I manage 200 million dollars in assets for 618 clients. Of those total assets, 10 million dollars are held by 331 clients with an average balance of $30,000. These clients are mainly lower net-worth, elderly, or young professionals just starting out. For these individuals, an advisory fee model does not make sense. A commission-based model is appropriate for them because it eliminates the out of pocket costs and provides a way to pay for the advice, products, and services they need. I want to ensure that any rule written by the Department of Labor will make it easier for these investors to continue receiving high-quality retirement services from a trusted financial advisor, but this proposal fails them.

In conclusion, FSI supports a uniform fiduciary standard. We will continue to work with the Department of Labor to protect investors and expand access to retirement advice. Unfortunately, the current proposal is unworkable, complex, and costly.

Thank you, and I look forward to any questions that you may have.