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**From:** Mike Callan [mailto:mrcpw@cox.net]  
**Sent:** Thursday, February 05, 2009 9:22 PM  
**To:** EBSA, E-ORI - EBSA  
**Subject:** Investment Advice

To whom it may concern;

I serve as the Financial Advisor to a number of 401k plans and am compensated for my services as a result of the 12b-1 fees that are assessed by the mutual funds that populate the 401k portfolio of each plan. I also work for a wirehouse/broker dealer that insists that I not use the title of a Fiduciary due to the potential liability that they believe exists to the organization that I represent. My perspective is this: whether I give any specific investment advice or not, my compensation remains unchanged. If the need for investment advice has never been greater, as a result of the implosion that has happened in the market over the last 6 months, why not remove the requirement that one needs to first define themselves as a Fiduciary before they are in a position to offer personalized advice to a participant in the plan? If my compensation remains the same, regardless of the existence of any "investment advice" or not, I am not going to be in a position to be unfairly rewarded as I offer said advice. I understand that Congressman Miller is extremely concerned about my "bias", but if my compensation is unaffected by the delivery of the advice, why not remove the Fiduciary requirement and allow us, as Financial Advisors, to deliver what the marketplace needs, in a way that our broker/dealer can accept, and that the participating employees can benefit from? Anything less than this is to perpetuate the myth that advice is not being given by the great majority of Financial Advisors that service the 401k plans in Corporate America.

I welcome your thoughts.

Mike Callan

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