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Sent: Monday, July 20, 2015 3:19 PM
To: EBSA, E-ORI - EBSA
Subject: RIN 1210-AB32

July 20, 2015

To the Department of Labor:

It is my understanding that the Department of Labor wishes to end the exemption of broker/dealer annuity agents from the Fiduciary Standard Rule due to perceived suitability issues.

To prevent conflict of interest, however, the following measures have been in place for decades:

- The sale of an unsuitable annuity is against the law.
- Every sale must be reviewed by the insurance company for suitability before a policy may be issued.
- The insurance company is liable for any unsuitable sale.

There is “scant” evidence that these measures are not serving the consumer, according to a study referenced by the DOL. The study also observes that “there are apparently no field experiments involving insurance intermediaries in the U.S.” By the DOL’s own admission, “direct empirical evidence about the frequency of such misbehavior is limited.” This lack of evidence suggests the moral hazard posed by commission on annuity products has been overstated.

There has been no shortage of evidence that the Fiduciary Standard, when applied to annuities, would misalign the interests of the client and the fiduciary.

- Fee structures are notoriously complex and difficult to interpret.
- According to a study by the Securities and Exchange Commission, a fiduciary advisor is 11 times more likely to be subject to an enforcement action than a suitability broker.
- Fiduciaries get paid based on a client’s Assets Under Management (AUM). Annuity products provide income to clients, which decreases their AUM, which decreases the amount by which the fiduciary gets paid.
- The Rule makes the recommendation of riskier, more volatile products more advantageous to the fiduciary.

The Fiduciary Standard-only Rule would harm the less-affluent:

- Annuity commission is earned once, but fee-based compensation is paid by the client every year for life. The Fiduciary would receive substantially more of the client's money than the commissioned agent.
- Fee-based advisors typically require at least \$250,000 of investable assets before taking on a client. According to the U.S. Census Bureau, the **median** value of an IRA account and 401(k) plan in 2011 was \$34,000 and \$30,000, respectively. The vast majority of Americans would not have enough assets to use an annuity.

Right now, Americans who need annuity protection are insulated from conflict of interest and are not excluded by the modesty of their assets. The sale of annuity products under a Fiduciary-only rule would break that system; it would become an arrangement that breeds moral hazard.

We respectfully urge the Department of Labor to preserve our exemption from the Fiduciary-Only requirement.

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