



August 12, 2015

Testimony of Farmers Insurance and Farmers Financial Solutions
Regarding the
U.S. Department of Labor
Conflict of Interest Rule

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Ladies and Gentlemen, thank you for the opportunity to speak with you today. My name is Joe Wimpee and I am the owner and president of the Joe Wimpee Agency in Rockwall, Texas. Farmers appreciates the opportunity to offer our opinions and suggestions on the Conflict of Interest Rule.

At the outset I will state that Farmers Agents work in the best interest of our customers. While we will discuss concerns with the current proposal as written, establishing a standard that asks us to work in the best interest of our customers is not one of those concerns.

Customers' Best Interest Aligned with Farmers' Best Interest

Before I comment on the specifics of the proposed rule, I want to tell you about my business, my customers, and how I serve the role as trusted advisor to my customers for their financial security. First and foremost I am an insurance agent. I have been in business for 23 years, and my mission is to help customers get the coverage that meets their insurance needs. With me as their insurance agent, customers are informed and aware of Farmers products as well as insurance industry trends. A critical component of my success is the personal referrals that my customers make to their family and friends because they are impressed by my dedication, knowledge and tireless work ethic on their behalf. I strive so hard to help customers protect their assets because I'm proud to do business in Rockwall, Texas and its surrounding areas.

Farmers Financial Solutions (FFS) was formed in 2000 and is a registered broker dealer owned by the Farmers Insurance Exchanges. FFS serves working class and middle income customers that rely on their Farmers Agents as trusted advisors. We have selling agreements with a variety of well-known mutual fund families including American Funds, BlackRock, Franklin Templeton, Principal Funds, Voya and Oppenheimer. Of the close to 14,000 exclusive agents for Farmers Insurance, just over 5,400 of them are Registered Representatives of FFS. Collectively we open 28,000 customer accounts per year, which results in approximately \$600,000,000 in assets invested using FFS on an annual basis. FFS currently serves over 200,000 households.

At Farmers, Customer Experience is our top priority. The property-casualty insurance market is highly competitive and we constantly seek to add value with products and services to deepen the customer-agent relationship. Because FFS customers are almost always Farmers Insurance

customers, it is economically possible for Farmers agents to serve customers with smaller initial investments and smaller account balances while receiving very little compensation. FFS commissions are usually far outweighed by insurance commissions, but our retirement product offerings help agents to enhance the customer experience, thus deepening the relationship. FFS offers a wide variety of fund families from different producers, so our agents are not beholden to a small menu of investment products. By serving our customers with these diverse investment options, we are better able to provide objective advice and meet our customers' needs, as compared to other financial advisors.

Farmers Customers Rely on Personalized Investment Advice from Farmers Agents

FFS customers are primarily working class and middle income investors. A fair representation of the average FFS customer is the 31-year old single female who starts an IRA Mutual Fund with a \$200 initial investment. Or the 41-year old male who opens an IRA in 2002 with no money up front, contributing \$50 per month (with about \$1 per monthly investment being earned by the Farmers' agent in commission) until he can increase that to \$100 per month in 2012.

Just this May, I drove three hours through the rain to meet with five restaurant workers to explain the 401(k) their employer established and its corresponding investment options, encouraging them to participate. These employees average investment was only \$25 per paycheck into their employer's plan, and I will make \$10 in commission for the year on that transaction.

As another example, I recently managed a portion of a newly widowed customer's investments who also had investments with a large wealth management company. I was able to advise her that, under my suggested investment strategy, she would have made \$108,000 more in returns over 2 years and avoided the \$22,000 in fees charged by the other company.

In general, we actually contend that the property-casualty insurance agent is uniquely positioned to understand our customers' financial positions and needs, and therefore can grasp the customer's best interest better than most other financial advisors. For example, a financial advisor will not necessarily know the non-cash assets that impact the customer's financial picture. When a customer owns a rental property, is planning to start or expand their small business, needs their roof replaced in the upcoming year, or has a child approaching college, I will usually know such information because they will have corresponding insurance needs with each event. Financial advisors may only come about this information when conversations involve the customer's liquid assets. Lastly, and perhaps most importantly, is that my customers are individuals who want local representation and a personal relationship with their advisor. They do not want to go online or speak with a voice on the other end of an "800-number" who doesn't really know their personal situation and cannot integrate all of their investments and assets in making recommendations.

Farmers Insurance commercials really do embody our customer-centric approach. We are focused on making our customers smarter about insurance, and we deliver on that by finding and covering the gaps in their insurance needs. By knowing our customers personally and serving as a trusted advisor, we know their best interest and we put that best interest first in their insurance and their retirement needs.

I am a member of the same community as my customers and I rely on customer loyalty and referrals. I am proud of the financial security that I can provide through FFS.

Farmers Supports a “Best Interest Standard,” but is Concerned with the Unintended Consequences

Farmers agrees with the Department of Labor (DOL) that planning for retirement is important and that all levels of investors should receive ethical, professional guidance. Farmers supports a universal “best interest standard” that would require financial professionals to act in the best interest of their customers, while also preserving the fundamentals of the personalized advice model. Although well intentioned, the proposed DOL rule puts a valuable advice model serving middle class aspirants at risk.

Current DOL Proposal Will Not Work and Will Reduce Consumer Access to Personalized Advice

In the current DOL proposal, the prohibited transaction rules generally prohibit fiduciaries from providing advice if the advice could affect the compensation of the fiduciary, even if the advice is in the best interest of their customer. Commission-based differential compensation is currently allowed under existing financial regulations, and has proven to be the model that best serves small accounts and small businesses. Without a workable prohibited transaction exemption that will allow for this compensation model to continue, the fundamental aspects of the relationship between retirement clients and financial professionals like me and other Farmers agents will no longer be practicable.

DOL has the authority to provide exemptions from the prohibited transaction rules, and has offered new exemptions in their proposal. However, the Best Interest Contract Exemption, or BICE, sets terms that brokers will find nearly impossible to meet to maintain the structure by which they are currently compensated. The BICE compensation and fee disclosures, as well as the quarterly and annual performance projections, are particularly problematic. Even if the BICE terms are met, I will face a heightened risk of crippling frivolous litigation. Agents will be forced to undertake this risk or forfeit commissions and choose to no longer offer investment advice to customers.

If the rule is unchanged, many broker-dealers, including many Farmers agents, will need to change their business model and stop serving entry level customers. This would have the opposite effect of DOL’s stated goals of increasing Americans’ retirement security.

Farmers Wants to Help DOL Get the “Best Interest Standard” Right

Farmers is committed to working constructively with DOL to improve the current proposal and achieve investor protection. Farmers would support a final rule with some important modifications that would clarify the DOL’s suggested definition of fiduciary.

- **Clarify Distinction between Education and Advice** - The final rule should clarify that general investment education and distribution advice does not give rise to a fiduciary status. Only when advice leads to a financial transaction should fiduciary status be assigned to the advisor.

- **Amend the BICE to Allow a Workable Advisory Model** – The following changes need to be made to make the advisor model work for Farmers Agents:
 - **Clarify how BICE applies to existing customers.** Duplicative or confusing disclosures could serve to undermine the trust existing customers have in their Farmers agent. A sensible transition process must be allowed, either by a grandfather clause or an addendum to existing disclosures.
 - **Fix the timing of the BICE contract** to be entered at the point of a financial transaction, and not during the education and advice phase.
 - **Allow for Unilateral Contract to the BICE**, either by the advisor or the broker-dealer.
 - **Harmonize with Financial Regulations and existing securities law** to ensure a coordinated uniform standard when and if the SEC and/or FINRA move forward. Harmonization would only be adequate if it addresses enforcement of the BICE, compensation and fee disclosures, as well as performance projections.
 - **Remove private right of action** to reduce the high risk of frivolous litigation.
- **Provide a Disclosure Based Exemption for Advisors that Act in Best Interest.** The rule should provide a clear disclosure-based exemption from prohibited transaction rules based on the principle that an advisor is required to act in the client’s best interest. This exemption could also give weight to the product diversity offered by advisors and to the share of their overall compensation derived from retirement investments.

In closing, Farmers Agents already work in the best interest of our customers. I am proud of the retirement advice and services that I can now offer to Farmers customers. FFS wants to keep serving our customers’ retirement needs for years to come. In particular when it comes to working-class Americans, if I am not there to serve my customers, most will simply walk away and not save for retirement at all. While the DOL proposal is well intended, if the appropriate changes are not made to DOL’s current Conflict of Interest proposal, Americans will have far less access to personalized retirement advice.

Thank you for considering Farmers’ comments. We wish to continue working with the DOL on this important issue.