



July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Alabama

cc: Alabama Congressional Delegation  
Alabama Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

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Virtually all NAIFA members working in the individual IRA space will have to rely on the Department's proposed Best Interest Contract ("BIC") Exemption, which represents a far more onerous compliance regime than any of our members have faced previously. Thus, the proposal portends a *dramatic* shift in the way our members will interact with their clients and conduct their businesses, and a significant increase in the cost of conducting their business. NAIFA does not oppose a "best interest" fiduciary standard for its members. However, any new standard must be operationalized in a manner that is workable for Main Street advisors and their clients.

NAIFA has significant concerns about the workability of some portions of the Department's proposed rule, and recommends several adjustments to the proposal. Namely, NAIFA strongly encourages the Department to adopt a final rule that:

- Allows for sales, marketing, and client development conversations and communications between advisors and potential clients without triggering fiduciary status or liability, either through a revised definition of "investment advice" or through a more robust seller's exception;
- Contains a carve-out from the definition of fiduciary investment advice for assistance with small plan menu design;
- Allows for meaningful investment education without triggering fiduciary status;
- Allows for reasonable limitations on the duration of fiduciary obligations;
- Builds upon existing supervisory and regulatory approaches;
- Affirmatively and explicitly states that sales of proprietary or other limited range of products in and of itself is not a violation of a best interest fiduciary standard; and
- Does not cover advice or services related to non-cash-value welfare benefit plans, such as health, accident, disability, or life insurance products that do not have an investment component.

In its current form, the proposed rule presents major—and in some cases, insurmountable—obstacles for NAIFA members serving middle-market retail investors (i.e., those who need the most encouragement and assistance when it comes to retirement savings).

Businesses that sponsor retirement savings plans often rely on advisors to help implement the plan, design plan features such as auto enrollment to encourage employees to participate in the plan, as well as assistance in selecting the investment options available to participants. Affordability is a crucial issue, especially for small plans.

Employees require education on the importance of saving early for retirement, on determining their risk tolerance and what investment options are available in their work-place retirement plan. The DOL proposal narrowly defines investment education, which will limit the assistance advisors can provide without triggering fiduciary obligations.

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The BIC exemption requires a complicated three-party contract that is confusing to retirement savers; and it requires the institution to maintain a public website with copious amounts of data and information and in a format that may be impossible to accomplish.

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Thank you for the opportunity to share these concerns and necessary changes to achieve the goal of helping American retirees achieve a secure retirement.



July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Alaska

cc: Alaska Congressional Delegation  
Alaska Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Arizona

cc: Arizona Congressional Delegation  
Arizona Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

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Secretary of Labor

From: NAIFA- Arkansas

cc: Arkansas Congressional Delegation  
Arkansas Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

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Secretary of Labor

From: NAIFA- California

cc: California Congressional Delegation  
California Insurance Commissioner

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From: NAIFA- Colorado

cc: Colorado Congressional Delegation  
Colorado Insurance Commissioner

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Thank you for the opportunity to share these concerns and necessary changes to achieve the goal of helping American retirees achieve a secure retirement.



July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Connecticut

cc: Connecticut Congressional Delegation  
Connecticut Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

NAIFA-Connecticut is one of the 50 state associations forming the National Association of Insurance and Financial Advisors (NAIFA) federation, one of the nation's oldest and largest associations representing the interests of insurance professionals from every Congressional district in the United States. NAIFA members assist consumers by focusing their practices on one or more of the following: life insurance and annuities, health insurance and employee benefits, multiline, and financial advising and investments. NAIFA's mission is to advocate for a positive legislative and regulatory environment, enhance business and professional skills, and promote the ethical conduct of its members.

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- Affirmatively and explicitly states that sales of proprietary or other limited range of products in and of itself is not a violation of a best interest fiduciary standard; and
- Does not cover advice or services related to non-cash-value welfare benefit plans, such as health, accident, disability, or life insurance products that do not have an investment component.

In its current form, the proposed rule presents major—and in some cases, insurmountable—obstacles for NAIFA members serving middle-market retail investors (i.e., those who need the most encouragement and assistance when it comes to retirement savings).

Businesses that sponsor retirement savings plans often rely on advisors to help implement the plan, design plan features such as auto enrollment to encourage employees to participate in the plan, as well as assistance in selecting the investment options available to participants. Affordability is a crucial issue, especially for small plans.

Employees require education on the importance of saving early for retirement, on determining their risk tolerance and what investment options are available in their work-place retirement plan. The DOL proposal narrowly defines investment education, which will limit the assistance advisors can provide without triggering fiduciary obligations.

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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Delaware

cc: Delaware Congressional Delegation  
Delaware Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Florida

cc: Florida Congressional Delegation  
Florida Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Georgia

cc: Georgia Congressional Delegation  
Georgia Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Hawaii

cc: Hawaii Congressional Delegation  
Hawaii Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

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To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Idaho

cc: Idaho Congressional Delegation  
Idaho Insurance Commissioner

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Businesses that sponsor retirement savings plans often rely on advisors to help implement the plan, design plan features such as auto enrollment to encourage employees to participate in the plan, as well as assistance in selecting the investment options available to participants. Affordability is a crucial issue, especially for small plans.

Employees require education on the importance of saving early for retirement, on determining their risk tolerance and what investment options are available in their work-place retirement plan. The DOL proposal narrowly defines investment education, which will limit the assistance advisors can provide without triggering fiduciary obligations.

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ERISA does not permit investment advice fiduciaries to have conflicts of interest, yet 98% of all IRA accounts are served under a commission model that the DOL considers to be conflicted. Therefore, the DOL must continue to provide a simple exemption to accommodate third party compensation so that these retirement savers are not left to “go it alone” when it comes to investment advice.

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  - that any contract need not be signed prior to the point of sale;
  - that the contract need not be signed by more than one financial institution;
  - that advisors do not have to provide warranties regarding another entity's (e.g., a financial institution) incentive and compensation arrangements; and, that the contract may contain language reasonably limiting the duration of the fiduciary relationship

Thank you for the opportunity to share these concerns and necessary changes to achieve the goal of helping American retirees achieve a secure retirement.



July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Illinois

cc: Illinois Congressional Delegation  
Illinois Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

NAIFA-Illinois is one of the 50 state associations forming the National Association of Insurance and Financial Advisors (NAIFA) federation, one of the nation's oldest and largest associations representing the interests of insurance professionals from every Congressional district in the United States. NAIFA members assist consumers by focusing their practices on one or more of the following: life insurance and annuities, health insurance and employee benefits, multiline, and financial advising and investments. NAIFA's mission is to advocate for a positive legislative and regulatory environment, enhance business and professional skills, and promote the ethical conduct of its members.

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- Affirmatively and explicitly states that sales of proprietary or other limited range of products in and of itself is not a violation of a best interest fiduciary standard; and
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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Indiana

cc: Indiana Congressional Delegation  
Indiana Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Iowa

cc: Iowa Congressional Delegation  
Iowa Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

NAIFA-Iowa is one of the 50 state associations forming the National Association of Insurance and Financial Advisors (NAIFA) federation, one of the nation's oldest and largest associations representing the interests of insurance professionals from every Congressional district in the United States. NAIFA members assist consumers by focusing their practices on one or more of the following: life insurance and annuities, health insurance and employee benefits, multiline, and financial advising and investments. NAIFA's mission is to advocate for a positive legislative and regulatory environment, enhance business and professional skills, and promote the ethical conduct of its members.

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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Kansas

cc: Kansas Congressional Delegation  
Kansas Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

NAIFA-Kansas is one of the 50 state associations forming the National Association of Insurance and Financial Advisors (NAIFA) federation, one of the nation's oldest and largest associations representing the interests of insurance professionals from every Congressional district in the United States. NAIFA members assist consumers by focusing their practices on one or more of the following: life insurance and annuities, health insurance and employee benefits, multiline, and financial advising and investments. NAIFA's mission is to advocate for a positive legislative and regulatory environment, enhance business and professional skills, and promote the ethical conduct of its members.

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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Kentucky

cc: Kentucky Congressional Delegation  
Kentucky Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Louisiana

cc: Louisiana Congressional Delegation  
Louisiana Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Maine

cc: Maine Congressional Delegation  
Maine Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

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Secretary of Labor

From: NAIFA- Maryland

cc: Maryland Congressional Delegation  
Maryland Insurance Commissioner

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From: NAIFA- Massachusetts

cc: Massachusetts Congressional Delegation  
Massachusetts Insurance Commissioner

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From: NAIFA- Michigan

cc: Michigan Congressional Delegation  
Michigan Insurance Commissioner

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Thank you for the opportunity to share these concerns and necessary changes to achieve the goal of helping American retirees achieve a secure retirement.



July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Mississippi

cc: Mississippi Congressional Delegation  
Mississippi Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

NAIFA-Mississippi is one of the 50 state associations forming the National Association of Insurance and Financial Advisors (NAIFA) federation, one of the nation's oldest and largest associations representing the interests of insurance professionals from every Congressional district in the United States. NAIFA members assist consumers by focusing their practices on one or more of the following: life insurance and annuities, health insurance and employee benefits, multiline, and financial advising and investments. NAIFA's mission is to advocate for a positive legislative and regulatory environment, enhance business and professional skills, and promote the ethical conduct of its members.

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- Affirmatively and explicitly states that sales of proprietary or other limited range of products in and of itself is not a violation of a best interest fiduciary standard; and
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In its current form, the proposed rule presents major—and in some cases, insurmountable—obstacles for NAIFA members serving middle-market retail investors (i.e., those who need the most encouragement and assistance when it comes to retirement savings).

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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Missouri

cc: Missouri Congressional Delegation  
Missouri Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Montana

cc: Montana Congressional Delegation  
Montana Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Nebraska

cc: Nebraska Congressional Delegation  
Nebraska Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Nevada

cc: Nevada Congressional Delegation  
Nevada Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

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Secretary of Labor

From: NAIFA- New Hampshire

cc: New Hampshire Congressional Delegation  
New Hampshire Insurance Commissioner

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Thank you for the opportunity to share these concerns and necessary changes to achieve the goal of helping American retirees achieve a secure retirement.



July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- New Jersey

cc: New Jersey Congressional Delegation  
New Jersey Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- New Mexico

cc: New Mexico Congressional Delegation  
New Mexico Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- New York

cc: New York Congressional Delegation  
New York Insurance Commissioner

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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- North Carolina

cc: North Carolina Congressional Delegation  
North Carolina Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

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Secretary of Labor

From: NAIFA- North Dakota

cc: North Dakota Congressional Delegation  
North Dakota Insurance Commissioner

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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Ohio

cc: Ohio Congressional Delegation  
Ohio Insurance Commissioner

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In its current form, the proposed rule presents major—and in some cases, insurmountable—obstacles for NAIFA members serving middle-market retail investors (i.e., those who need the most encouragement and assistance when it comes to retirement savings).

Businesses that sponsor retirement savings plans often rely on advisors to help implement the plan, design plan features such as auto enrollment to encourage employees to participate in the plan, as well as assistance in selecting the investment options available to participants. Affordability is a crucial issue, especially for small plans.

Employees require education on the importance of saving early for retirement, on determining their risk tolerance and what investment options are available in their work-place retirement plan. The DOL proposal narrowly defines investment education, which will limit the assistance advisors can provide without triggering fiduciary obligations.

The proposed rule does not allow an advisor to identify specific investments, even as an example of the type or class of investment that meet the employee's retirement objectives. As such, the rule transforms true education into fiduciary advice so early in the process that it would reduce access to necessary educational information, and likely result in less savings and riskier choices.

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Only half of 401(k) plans have systematic withdrawal provisions, and only 15% have an annuity to provide guaranteed lifetime income as an investment choice, necessitating the employee roll the plan assets to an IRA, where an annuity can be purchased. It is less expensive for the advisor to be paid a commission in this circumstance than to pay an on-going asset management fee.

ERISA does not permit investment advice fiduciaries to have conflicts of interest, yet 98% of all IRA accounts are served under a commission model that the DOL considers to be conflicted. Therefore, the DOL must continue to provide a simple exemption to accommodate third party compensation so that these retirement savers are not left to “go it alone” when it comes to investment advice.

The BIC exemption requires a complicated three-party contract that is confusing to retirement savers; and it requires the institution to maintain a public website with copious amounts of data and information and in a format that may be impossible to accomplish.

The DOL should modify the contract conditions; specifically:

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- Or, if the Department retains the contract requirement, clarify:
  - that any contract need not be signed prior to the point of sale;
  - that the contract need not be signed by more than one financial institution;
  - that advisors do not have to provide warranties regarding another entity’s (e.g., a financial institution) incentive and compensation arrangements; and, that the contract may contain language reasonably limiting the duration of the fiduciary relationship

Thank you for the opportunity to share these concerns and necessary changes to achieve the goal of helping American retirees achieve a secure retirement.



July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Oklahoma

cc: Oklahoma Congressional Delegation  
Oklahoma Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

NAIFA-Oklahoma is one of the 50 state associations forming the National Association of Insurance and Financial Advisors (NAIFA) federation, one of the nation's oldest and largest associations representing the interests of insurance professionals from every Congressional district in the United States. NAIFA members assist consumers by focusing their practices on one or more of the following: life insurance and annuities, health insurance and employee benefits, multiline, and financial advising and investments. NAIFA's mission is to advocate for a positive legislative and regulatory environment, enhance business and professional skills, and promote the ethical conduct of its members.

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The retirement products most commonly offered by NAIFA members are annuity products (fixed and variable) and mutual funds. Some of our members are independent advisors working with independent broker-dealers; others are affiliated with (or captives of) product providers and are restricted to some degree in the products they are able to sell.

Virtually all NAIFA members working in the individual IRA space will have to rely on the Department's proposed Best Interest Contract ("BIC") Exemption, which represents a far more onerous compliance regime than any of our members have faced previously. Thus, the proposal portends a *dramatic* shift in the way our members will interact with their clients and conduct their businesses, and a significant increase in the cost of conducting their business. NAIFA does not oppose a "best interest" fiduciary standard for its members. However, any new standard must be operationalized in a manner that is workable for Main Street advisors and their clients.

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- Contains a carve-out from the definition of fiduciary investment advice for assistance with small plan menu design;
- Allows for meaningful investment education without triggering fiduciary status;
- Allows for reasonable limitations on the duration of fiduciary obligations;
- Builds upon existing supervisory and regulatory approaches;
- Affirmatively and explicitly states that sales of proprietary or other limited range of products in and of itself is not a violation of a best interest fiduciary standard; and
- Does not cover advice or services related to non-cash-value welfare benefit plans, such as health, accident, disability, or life insurance products that do not have an investment component.

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Thank you for the opportunity to share these concerns and necessary changes to achieve the goal of helping American retirees achieve a secure retirement.



July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Oregon

cc: Oregon Congressional Delegation  
Oregon Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

NAIFA-Oregon is one of the 50 state associations forming the National Association of Insurance and Financial Advisors (NAIFA) federation, one of the nation's oldest and largest associations representing the interests of insurance professionals from every Congressional district in the United States. NAIFA members assist consumers by focusing their practices on one or more of the following: life insurance and annuities, health insurance and employee benefits, multiline, and financial advising and investments. NAIFA's mission is to advocate for a positive legislative and regulatory environment, enhance business and professional skills, and promote the ethical conduct of its members.

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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Pennsylvania

cc: Pennsylvania Congressional Delegation  
Pennsylvania Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

NAIFA-Pennsylvania is one of the 50 state associations forming the National Association of Insurance and Financial Advisors (NAIFA) federation, one of the nation's oldest and largest associations representing the interests of insurance professionals from every Congressional district in the United States. NAIFA members assist consumers by focusing their practices on one or more of the following: life insurance and annuities, health insurance and employee benefits, multiline, and financial advising and investments. NAIFA's mission is to advocate for a positive legislative and regulatory environment, enhance business and professional skills, and promote the ethical conduct of its members.

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Thank you for the opportunity to share these concerns and necessary changes to achieve the goal of helping American retirees achieve a secure retirement.



July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Rhode Island

cc: Rhode Island Congressional Delegation  
Rhode Island Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

NAIFA-Rhode Island is one of the 50 state associations forming the National Association of Insurance and Financial Advisors (NAIFA) federation, one of the nation's oldest and largest associations representing the interests of insurance professionals from every Congressional district in the United States. NAIFA members assist consumers by focusing their practices on one or more of the following: life insurance and annuities, health insurance and employee benefits, multiline, and financial advising and investments. NAIFA's mission is to advocate for a positive legislative and regulatory environment, enhance business and professional skills, and promote the ethical conduct of its members.

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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- South Carolina

cc: South Carolina Congressional Delegation  
South Carolina Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

NAIFA-South Carolina is one of the 50 state associations forming the National Association of Insurance and Financial Advisors (NAIFA) federation, one of the nation's oldest and largest associations representing the interests of insurance professionals from every Congressional district in the United States. NAIFA members assist consumers by focusing their practices on one or more of the following: life insurance and annuities, health insurance and employee benefits, multiline, and financial advising and investments. NAIFA's mission is to advocate for a positive legislative and regulatory environment, enhance business and professional skills, and promote the ethical conduct of its members.

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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- South Dakota

cc: South Dakota Congressional Delegation  
South Dakota Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

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Thank you for the opportunity to share these concerns and necessary changes to achieve the goal of helping American retirees achieve a secure retirement.



July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Tennessee

cc: Tennessee Congressional Delegation  
Tennessee Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Texas

cc: Texas Congressional Delegation  
Texas Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Utah

cc: Utah Congressional Delegation  
Utah Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Vermont

cc: Vermont Congressional Delegation  
Vermont Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

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Secretary of Labor

From: NAIFA- Virginia

cc: Virginia Congressional Delegation  
Virginia Insurance Commissioner

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Thank you for the opportunity to share these concerns and necessary changes to achieve the goal of helping American retirees achieve a secure retirement.



July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Washington

cc: Washington Congressional Delegation  
Washington Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

NAIFA-Washington is one of the 50 state associations forming the National Association of Insurance and Financial Advisors (NAIFA) federation, one of the nation's oldest and largest associations representing the interests of insurance professionals from every Congressional district in the United States. NAIFA members assist consumers by focusing their practices on one or more of the following: life insurance and annuities, health insurance and employee benefits, multiline, and financial advising and investments. NAIFA's mission is to advocate for a positive legislative and regulatory environment, enhance business and professional skills, and promote the ethical conduct of its members.

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The retirement products most commonly offered by NAIFA members are annuity products (fixed and variable) and mutual funds. Some of our members are independent advisors working with independent broker-dealers; others are affiliated with (or captives of) product providers and are restricted to some degree in the products they are able to sell.

Virtually all NAIFA members working in the individual IRA space will have to rely on the Department's proposed Best Interest Contract ("BIC") Exemption, which represents a far more onerous compliance regime than any of our members have faced previously. Thus, the proposal portends a *dramatic* shift in the way our members will interact with their clients and conduct their businesses, and a significant increase in the cost of conducting their business. NAIFA does not oppose a "best interest" fiduciary standard for its members. However, any new standard must be operationalized in a manner that is workable for Main Street advisors and their clients.

NAIFA has significant concerns about the workability of some portions of the Department's proposed rule, and recommends several adjustments to the proposal. Namely, NAIFA strongly encourages the Department to adopt a final rule that:

- Allows for sales, marketing, and client development conversations and communications between advisors and potential clients without triggering fiduciary status or liability, either through a revised definition of “investment advice” or through a more robust seller’s exception;
- Contains a carve-out from the definition of fiduciary investment advice for assistance with small plan menu design;
- Allows for meaningful investment education without triggering fiduciary status;
- Allows for reasonable limitations on the duration of fiduciary obligations;
- Builds upon existing supervisory and regulatory approaches;
- Affirmatively and explicitly states that sales of proprietary or other limited range of products in and of itself is not a violation of a best interest fiduciary standard; and
- Does not cover advice or services related to non-cash-value welfare benefit plans, such as health, accident, disability, or life insurance products that do not have an investment component.

In its current form, the proposed rule presents major—and in some cases, insurmountable—obstacles for NAIFA members serving middle-market retail investors (i.e., those who need the most encouragement and assistance when it comes to retirement savings).

Businesses that sponsor retirement savings plans often rely on advisors to help implement the plan, design plan features such as auto enrollment to encourage employees to participate in the plan, as well as assistance in selecting the investment options available to participants. Affordability is a crucial issue, especially for small plans.

Employees require education on the importance of saving early for retirement, on determining their risk tolerance and what investment options are available in their work-place retirement plan. The DOL proposal narrowly defines investment education, which will limit the assistance advisors can provide without triggering fiduciary obligations.

The proposed rule does not allow an advisor to identify specific investments, even as an example of the type or class of investment that meet the employee’s retirement objectives. As such, the rule transforms true education into fiduciary advice so early in the process that it would reduce access to necessary educational information, and likely result in less savings and riskier choices.

Employees need education and advice when rolling or transferring plan assets to another plan or to an IRA, as well as advice on taking distributions from their plan in retirement. The DOL rule, as currently drafted, does not allow advisors to receive third party compensation when advising plan participants on distribution options.

Only half of 401(k) plans have systematic withdrawal provisions, and only 15% have an annuity to provide guaranteed lifetime income as an investment choice, necessitating the employee roll the plan assets to an IRA, where an annuity can be purchased. It is less expensive for the advisor to be paid a commission in this circumstance than to pay an on-going asset management fee.

ERISA does not permit investment advice fiduciaries to have conflicts of interest, yet 98% of all IRA accounts are served under a commission model that the DOL considers to be conflicted. Therefore, the DOL must continue to provide a simple exemption to accommodate third party compensation so that these retirement savers are not left to “go it alone” when it comes to investment advice.

The BIC exemption requires a complicated three-party contract that is confusing to retirement savers; and it requires the institution to maintain a public website with copious amounts of data and information and in a format that may be impossible to accomplish.

The DOL should modify the contract conditions; specifically:

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- Or, if the Department retains the contract requirement, clarify:
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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- West Virginia

cc: West Virginia Congressional Delegation  
West Virginia Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

NAIFA-West Virginia is one of the 50 state associations forming the National Association of Insurance and Financial Advisors (NAIFA) federation, one of the nation's oldest and largest associations representing the interests of insurance professionals from every Congressional district in the United States. NAIFA members assist consumers by focusing their practices on one or more of the following: life insurance and annuities, health insurance and employee benefits, multiline, and financial advising and investments. NAIFA's mission is to advocate for a positive legislative and regulatory environment, enhance business and professional skills, and promote the ethical conduct of its members.

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The retirement products most commonly offered by NAIFA members are annuity products (fixed and variable) and mutual funds. Some of our members are independent advisors working with independent broker-dealers; others are affiliated with (or captives of) product providers and are restricted to some degree in the products they are able to sell.

Virtually all NAIFA members working in the individual IRA space will have to rely on the Department's proposed Best Interest Contract ("BIC") Exemption, which represents a far more onerous compliance regime than any of our members have faced previously. Thus, the proposal portends a *dramatic* shift in the way our members will interact with their clients and conduct their businesses, and a significant increase in the cost of conducting their business. NAIFA does not oppose a "best interest" fiduciary standard for its members. However, any new standard must be operationalized in a manner that is workable for Main Street advisors and their clients.

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- Contains a carve-out from the definition of fiduciary investment advice for assistance with small plan menu design;
- Allows for meaningful investment education without triggering fiduciary status;
- Allows for reasonable limitations on the duration of fiduciary obligations;
- Builds upon existing supervisory and regulatory approaches;
- Affirmatively and explicitly states that sales of proprietary or other limited range of products in and of itself is not a violation of a best interest fiduciary standard; and
- Does not cover advice or services related to non-cash-value welfare benefit plans, such as health, accident, disability, or life insurance products that do not have an investment component.

In its current form, the proposed rule presents major—and in some cases, insurmountable—obstacles for NAIFA members serving middle-market retail investors (i.e., those who need the most encouragement and assistance when it comes to retirement savings).

Businesses that sponsor retirement savings plans often rely on advisors to help implement the plan, design plan features such as auto enrollment to encourage employees to participate in the plan, as well as assistance in selecting the investment options available to participants. Affordability is a crucial issue, especially for small plans.

Employees require education on the importance of saving early for retirement, on determining their risk tolerance and what investment options are available in their work-place retirement plan. The DOL proposal narrowly defines investment education, which will limit the assistance advisors can provide without triggering fiduciary obligations.

The proposed rule does not allow an advisor to identify specific investments, even as an example of the type or class of investment that meet the employee’s retirement objectives. As such, the rule transforms true education into fiduciary advice so early in the process that it would reduce access to necessary educational information, and likely result in less savings and riskier choices.

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Only half of 401(k) plans have systematic withdrawal provisions, and only 15% have an annuity to provide guaranteed lifetime income as an investment choice, necessitating the employee roll the plan assets to an IRA, where an annuity can be purchased. It is less expensive for the advisor to be paid a commission in this circumstance than to pay an on-going asset management fee.

ERISA does not permit investment advice fiduciaries to have conflicts of interest, yet 98% of all IRA accounts are served under a commission model that the DOL considers to be conflicted. Therefore, the DOL must continue to provide a simple exemption to accommodate third party compensation so that these retirement savers are not left to “go it alone” when it comes to investment advice.

The BIC exemption requires a complicated three-party contract that is confusing to retirement savers; and it requires the institution to maintain a public website with copious amounts of data and information and in a format that may be impossible to accomplish.

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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Wisconsin

cc: Wisconsin Congressional Delegation  
Wisconsin Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

NAIFA-Wisconsin is one of the 50 state associations forming the National Association of Insurance and Financial Advisors (NAIFA) federation, one of the nation's oldest and largest associations representing the interests of insurance professionals from every Congressional district in the United States. NAIFA members assist consumers by focusing their practices on one or more of the following: life insurance and annuities, health insurance and employee benefits, multiline, and financial advising and investments. NAIFA's mission is to advocate for a positive legislative and regulatory environment, enhance business and professional skills, and promote the ethical conduct of its members.

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July 15, 2015

To: The Honorable Thomas E. Perez  
Secretary of Labor

From: NAIFA- Wyoming

cc: Wyoming Congressional Delegation  
Wyoming Insurance Commissioner

**Re: Department of Labor (RIN 1210-AB32)**

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