



August 26, 2015

Kenneth E. Bentsen, Jr.  
President and CEO  
Securities Industry and Financial Markets Association  
1101 New York Avenue, NW, 8th Floor  
Washington, D.C. 20005

Dear Mr. Bentsen,

I am writing to request information supplementary to your July 20, 2015 comment on the Department of Labor's April 20, 2015 Notice of Proposed Rulemaking titled "Definition of the Term 'Fiduciary'; Conflict of Interest Rule – Retirement Investment Advice" and accompanying proposed exemptions (the Proposal). That comment included two reports, "Comment on the Department of Labor Proposal and Regulatory Impact Analysis" by NERA Economic Consulting and "Report on the Anticipated Operational Impacts to Broker-Dealers of the Department of Labor's Proposed Conflicts of Interest Rule Package" by Deloitte, both of which presented certain new data relevant to the Proposal and its accompanying Regulatory Impact Analysis (RIA). The supplementary information I am requesting will help inform the Department's full and careful consideration of these new data as this rulemaking process progresses.

My request, specified below, is limited to information about, or contained within, the data you provided. I am not asking you to collect new data or undertake new analysis. As such, I believe that you or your agents are likely to have all or most of the requested information close at hand and can provide it readily.

Information you provide in response to this request will become part of the public record associated with this rulemaking. I understand that some of the information I am requesting may be proprietary or raise privacy concerns. Therefore I would ask you to redact or aggregate requested information as appropriate, but not more than is necessary, to address these concerns. Please provide the requested information by September 21, 2015, or respond at your earliest convenience in writing to let me know when or whether you will provide it.

If you have questions about this request please contact me directly at 202-693-8427 or [piacentini.joseph@dol.gov](mailto:piacentini.joseph@dol.gov) at your earliest convenience.

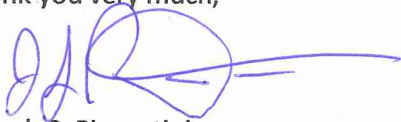
"Comment on the Department of Labor Proposal and Regulatory Impact" by NERA Economic Consulting presents data on fee-based and commission-based IRA accounts from a dataset of over 63,000 IRA accounts. With respect to these data, I submit for your consideration the following questions and requests:

- 1) What are the identities of the financial institutions at which these 63,000 IRA accounts are placed? How many of the fee-based and commission-based accounts, respectively, are placed in each of the financial institutions? Alternatively, please characterize generally how closely these firms represent, or how they differ from, the industry at large.
- 2) Please provide a description of the methodology used to select firms for participation in the survey and any other information that might assist in assessing the generalizability of the survey findings.
- 3) What criteria were used in selecting IRA accounts for the sample? NERA's report characterizes this set of accounts as "a representative sample of retirement accounts." What population of retirement accounts is this sample believed to be representative of? Is it believed to be representative of all U.S. IRA accounts? What analysis was performed to support the assertion that the sample is representative?
- 4) Please provide raw account-level data in csv format. In the absence of raw data, please provide descriptive statistics, including means and ranges by account type and size, for each variable analyzed in the report, including fee components and returns. Please provide a summary of the characteristics of the IRA accounts, including account balance and asset allocation, by fee structure (fee-based v. commission-based accounts).
- 5) To the extent available, please provide the characteristics of the owners of the IRA accounts, including age, education, and other socio-economic characteristics, by fee structure (fee-based v. commission-based accounts).
- 6) The report compares fees in fee-based and commission-based accounts. If possible, provide data on fees omitted from the comparison, such as asset-based fees in fee-based accounts, and, in commission-based accounts, "revenue that the firm may receive indirectly from the account holder, such as mark-up/mark-down revenue or 12b-1 fees." Please provide data on the distribution of fees around the reported medians.
- 7) The report compares returns in fee-based and commission-based accounts (Table 4), and states that the difference between them is not statistically significant. Please explain what difference was tested for statistical significance. Was it the average of the reported difference in medians across quarters (sample size of 11 quarters)? Did NERA study the difference between fee- and commission-based returns at the account level (sample size of 63,000 accounts), and did such study control for relevant factors, such as risk?
- 8) Table 4 characterizes the statistics presented as "quarterly," implying that the returns have not been annualized. Therefore the average, if expressed in annualized form, would be approximately -1.1 percent. Is that correct?

"Report on the Anticipated Operational Impacts to Broker-Dealers of the Department of Labor's Proposed Conflicts of Interest Rule Package" by Deloitte presents cost estimates for the proposal based on a survey of 18 SIFMA member firms. With respect to these data, I submit for your consideration the following questions and requests:

- 1) What are the identities of the 18 SIFMA member firms that participated in the “2015 Cost Survey?” Alternatively, please characterize generally how closely these firms represent, or how they differ from, the industry at large.
- 2) Please provide a description of the methodology used to select firms for participation in the survey and any other information that might assist in assessing the generalizability of the survey findings.
- 3) Please provide any scripts, questionnaires, and/or survey instruments used to elicit responses from survey participants.
- 4) Please provide raw survey data in csv format. In the absence of raw survey data, please provide descriptive statistics, including means and ranges by firm size category, for each of the questions posed to respondents.
- 5) Did the survey elicit separate estimates for costs attributable to the Proposal’s various specific provisions? Alternatively, did it elicit separate estimates for the “Key Cost Components” identified in Figure 2.9? If so, please provide a breakdown of cost estimates by cost component and firm size.

Thank you very much,



Joseph S. Piacentini

Chief Economist and Director of Policy and Research, EBSA