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Sent: Monday, July 20, 2015 6:19 PM
To: EBSA, E-ORI - EBSA
Subject: RIN-1210-AB32

July 20, 2015

Office of Regulations and Interpretations
Employee Benefits Security Administration
Attention: Conflicts of Interest Rule
Room N-5655

Office of Exemption Determinations
Employee Benefits Security Administration
Attention: D-11712 and D-11713
United States Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

RE: Proposed Conflict of Interest Rule and Related Proposals, RIN-1210-AB32

Dear Sir or Madam,

As President and representative of MWA Financial Services Inc., a broker dealer wholly owned by Modern Woodmen of America, a leading fraternal financial services organization, our mission is to improve the lives of our clients. As such, I greatly support the Department of Labor's (Department) goal of investor protection in the retirement savings marketplace. Unfortunately, the Department's proposed 'conflict of interest' rule (Proposal) attempts to achieve this goal in the wrong manner. If the Proposal is not substantively changed, it will end up hurting our clients and our business. Therefore, we appreciate this opportunity to submit comments to the Department and hope that they are helpful in crafting a regulation that achieves the goals of investor protection without hurting investors of modest means or businesses that provide these investors with high-quality retirement services.

The Proposal includes a variety of provisions that will make it harder for clients and other retirees to obtain access to the advice that they so desperately need to secure a dignified retirement. Specifically, we have the following concerns:

1) Financial Advisors are Heavily Regulated: The Proposal appears to be motivated by a mistaken belief that financial advisors and the financial industry are inadequately regulated. In truth, our business is heavily regulated by multiple regulators, and our broker-dealer routinely monitors activity and examines our business to ensure compliance with the numerous rules and regulations we are subject to. We are required to follow the rules of the Securities and Exchange Commission, the Financial Industry Regulatory Authority, state securities regulators, and may be subject to an examination or inspection by these agencies at any time. These regulators, in addition to creating and enforcing rules, are also at the front line working to detect illegal activity in the retirement market and coordinate with law enforcement to rid the industry of bad actors. This proposal, while intended to bolster the existing regulatory framework, will in fact create a more fractured and confusing environment that will

unnecessarily strain the resources of securities regulators and our broker-dealer's compliance department who are best positioned to detect and remedy regulatory concerns.

2) BICE is Unworkable: While the spirit of the proposed Best Interest Contract Exemption (BICE) may be sound, as currently crafted it is largely unworkable for a variety of reasons. The proposed BICE requires our firm to adhere to numerous very detailed, costly, and difficult requirements while producing an unprecedented amount of very specific data on a point of sale, annual, and continuing basis. It will also subject us to huge liability exposure. The Proposal also requires financial services firms to significantly alter the compensation structure of our industry. The result is that we will not be able to continue to advise small and mid-size clients who need retirement assistance. Without guidance, we fear that these individuals' retirement security will be placed at risk. This is unacceptable in light of the retirement crisis facing our country. In addition to these concerns, we also want to raise the following issues with the proposed BICE:

- The requirement that a customer sign the contract 'pre-engagement' will create an unnecessary hurdle to clients sitting down with a financial advisor and seeking to understand how to prepare for their retirement. Although the intended purpose of BICE is to enhance their rights and protections, clients seeking advice will be reluctant to sign a contract prior to getting to know whether to work with their advisor. Any such contract should be provided and signed at the point of sale.

- Creates Private Right of Action: We are also concerned with the proposed private right of action that would be created under the contract stipulated by BICE. This right was never authorized under ERISA or any other related statute. Furthermore, significant federal and state remedies are already available to consumers who allege harm by broker-dealers and their advisors.

- Removes Important Investments from an Advisors Tool Box: We also believe that the Department's decision to ban certain products from the provisions of BICE would in fact prevent advisors from serving the best interest of some clients. While concerns regarding price transparency and revenue flows may be driving this decision, financial advisors know that not every investor has the same needs and circumstances, and being able to provide a wide array of products allows advisors to serve different types of clients.

3) Disclosure Approach is Preferable to BICE: The Department appears to have discounted the fact that improved disclosures would address many of the concerns that have led to the Proposal. In order to provide investors with the information that they need, investors should receive concise consolidated disclosure documents written in plain English. These improved disclosures would ensure that consumers are better informed without the deep disruptions to the current retirement savings marketplace that would cause many retirement savers to lose access to invaluable financial advice.

4) Education Carve-Out Changes Will Hurt Retirees: The Proposal's changes to what is considered 'investment education' will likely curtail the effectiveness of investor education outreach. The inclusion of decumulation in 'investment education' is commendable, but the prohibition on using specific investments to demonstrate the options available for investors to create an appropriate asset allocation will lead to investors having less knowledge regarding their investment options.

5) Grandfathering Provision is Ineffective: Another concern is the Proposal's 'grandfathering provision,' which will require that virtually every single account be repapered, or that financial advisors not provide further service on their client's existing retirement accounts. This type of regulation does not serve the

best interests of investors. Therefore, it needs to be replaced with a more conventional grandfathering clause that is tied to the date of purchase, irrespective of continuance of service on the account.

6) The Proposal would only apply to retirement savings products: This would leave advisors working under a variety of standards depending upon our registration status (investment advisor or broker-dealer) and the account type (retirement or non-retirement). I believe this will lead to confusion amongst the clients we serve. It is because of this that it is critical that any standard of care be proposed in close coordinate with the securities regulators.

We urge the Department to work with the industry to develop a workable best interest standard that protects investors and preserves their access to much needed retirement assistance, products and services.

Sincerely,

Clint Pogemiller
President
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