

Request to Present Testimony
at the
**Hearing on Definition of the Term “Fiduciary”; Conflict of Interest Rule-
Retirement Investment Advice and Related Proposed Prohibited
Transaction Exemptions**

**Department of Labor
Employee Benefits Security Administration
RIN 1210-AB32; 1210-ZA25**

The American Retirement Association requests the opportunity to testify at the hearing on the definition of the term “Fiduciary” to be held August 10-12, 2015. The American Retirement Association is comprised of the American Society of Pension Professionals & Actuaries (ASPPA), the ASPPA College of Pension Actuaries (ACOPA), the National Association of Plan Advisors (NAPA), and the National Tax-deferred Savings Association (NTSA).

Marcy Supovitz, CPC, QPA, AIF, ChFC, CLU will be testifying on behalf of the American Retirement Association. Ms. Supovitz is President-elect of the American Retirement Association and a past president of NAPA.

The following issues will be included in the testimony:

1. Rollovers

The requirements of the Best Interest Contract Exemption (BICE) will discourage plan advisers from working with participants on rollovers, even in situations where the adviser is receiving level compensation on both sides of the transaction. A streamlined exemption for level compensation situations would encourage plan advisers to continue to work with participants on rollovers, and to maintain these trusted relationships between advisers and participants.

2. Investment education

Under the new proposal, mentioning specific fund names in any general communication to plan participants would be considered fiduciary advice at the participant level even though the adviser has no knowledge of any participants’ financial situation. Unless this rule is modified, advisers will be greatly limited in their ability to provide this valuable investment information to participants.

3. Small business exemption

Retirement plans for small businesses are sold, not bought. Without a seller's exemption for small plans, there will be fewer new small plans created, and fewer small business employees will have a plan at work.

4. Platform carve out

The carve-out for providers of a platform of investments allows the platform provider to market the platform. In practice, the marketing of the platform often takes place through third party administrators or others not related to the platform provider. The platform marketing carve out should extend to these third parties.

5. Transition rule

The proposed timeline for implementation of a final regulation will not be enough time to rework the contracts for existing plan sponsors and IRA owners who are not currently in level fee arrangements. An extended period after publication of the final rule should be provided to allow adequate time to transition existing relationships to the new requirements.

The American Retirement Association will be submitting a comment letter before the July 21, 2015 deadline.

Correspondence regarding this request should be sent to:

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