



July 24 2015

Office of Regulations and Interpretations  
Employee Benefits Security Administration  
Attn: Conflict of Interest Rule  
Room N-5655, U.S. Department of Labor  
200 Constitution Avenue NW.  
Washington, DC 20210

**RIN 1210-AB32**

To Whom It May Concern:

On behalf of the largest professional association of real estate appraisers in the world, thank you for the opportunity to request to testify at the hearing in August, on the U.S. Department of Labor (“DoL”) Employee Benefits Security Administration Proposed Rule (“proposal”) on the *Definition of the Term Fiduciary; Conflict of Interest Rule-Retirement Investment Advice*.

Outline

The Appraisal Institute would like to testify on the following points related to the proposal. Please note, a more detailed response can be found in either our July 17<sup>th</sup> comment letter, or our July 21<sup>st</sup> supplemental comment letter:

1. **Section (a)(1)(iii):** the lack of distinction between “appraisals” prepared for investment managers and “fairness opinions.” The proposed rule confuses the role of appraisals in buy and selling decisions, as the role of fiduciary is maintained by the investment manager, not the appraiser. The appraiser does not carry that responsibility or decision making authority, and contrary to the proposed rule, performs such work in accordance with generally accepted appraisal standards without advocacy to the client. Once the appraiser has completed the valuation assignment, the fairness opinions are decided by the investment manager or third party, who then holds the fiduciary decision responsibilities regarding the transaction. Once the appraisal opinion is provided, the work of the appraiser is completed and that work can be used by others to help make fiduciary decisions. These buy and sell decisions will be based on a variety of considerations with the appraised value being only one.
2. **Cost Increases:** According to insurance providers, the above change will likely result in a dramatic increase in insurance costs for valuation firms providing such a service. This will likely cause some to reconsider providing such important services, altogether. To our knowledge, the DOL has not attempted and had difficulty bringing enforcement actions against appraisers, or has not explained how that process is impeded by the lack of fiduciary coverage.
3. **Expanding the Proposed Carve-out** for providers of real estate valuations and fairness opinions for single-client investment funds, in addition to co-mingled funds. This would ensure access to information found in appraisals and valuations remains available.

Thank you again for the opportunity to request to testify on the proposal. To facilitate scheduling, please contact Bill Garber, Director of Government and External Relations at 202-298-5586,

[bgarber@appraisalinstitute.org](mailto:bgarber@appraisalinstitute.org) or Brian Rodgers, Manager of Federal Affairs, at 202-298-5597, [brodgers@appraisalinstitute.org](mailto:brodgers@appraisalinstitute.org).

Sincerely,

Appraisal Institute