

CHAMBER OF COMMERCE  
OF THE  
UNITED STATES OF AMERICA

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July 24, 2015

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

Re: Request to Testify at Public Hearing Regarding the Proposed Regulation on the Definition of the Term “Fiduciary” and the Related Proposed Prohibited Transaction Class Exemptions Published on April 20th, 2015

The U.S. Chamber of Commerce (the “Chamber”) is the world’s largest business federation representing more than three million businesses and organizations of every size, sector and region, with substantial membership in all 50 states. The Chamber appreciates that the U.S. Department of Labor (“DOL”) is providing an opportunity for interested parties to testify at a hearing on the proposed rule and associated prohibited transaction class exemptions scheduled for August 10 – 13, 2015. Accordingly, we respectfully request to testify at the hearing.

On July 17th, July 20th, and July 21st, 2015, the Chamber, in its own capacity and jointly with other organizations, submitted written comments in response to the proposed rule on the Definition of the Term “Fiduciary” and Related Proposed Prohibited Transaction Class Exemptions. We would like to testify to further explain our position on the regulatory package.

We request that Bradford Campbell, Counsel at Drinker Biddle & Reath, and outside ERISA counsel to the Chamber, testify on behalf of the Chamber relating to the technical substance of the comment letters, and Ron Bird, Senior Regulatory Economist at the Chamber, testify on the economic analysis.

Outline of Technical Substantive Testimony:

- I. Definition of a Fiduciary
  - a. Remove discriminatory large plan carve-out and replace it with a general sales exclusion for all plans and IRA owners.
  - b. Retain “mutual” and remove “specifically directed to” from the definition.

- c. Clarify when prohibited transactions arise in connection with rollover advice
- d. Remove "without regard to the individualized needs" from platform carve out
- II. Best Interest Contract Exemption
  - a. Remove the list of assets limiting the exemption's availability
  - b. Remove the state law cause of action
  - c. Clarify the availability of the exemption for rollovers
  - d. Replace the impossibly complex disclosure with simple disclosure
- III. PTEs
  - a. Permit all guaranteed income products, including individual variable annuities, to use PTE 84-24

The Testimony on the Economic Analysis will generally discuss concerns with the analysis and focus on the following topics:

- I. Comparison of EBSA RIA to requirements of Executive Orders 12866 and 13563
- II. Examination of benefits and costs of available alternatives
- III. Quantitative benefits assessment
- IV. Calculation of cost estimation
- V. Length of public comment period

We further request that to the extent possible, we would like to testify on August 10<sup>th</sup> and 11<sup>th</sup> to accommodate scheduling conflicts that could prevent one of the representatives from participating in the hearing. Thank you for your consideration of our request. We look forward to participating in this important dialogue.

Sincerely,



Randel Johnson  
Senior Vice President  
Labor, Immigration & Employee Benefits  
U.S. Chamber of Commerce



David Hirschmann  
President & Chief Executive Officer  
Center for Capital Markets  
Competitiveness  
U.S. Chamber of Commerce