

**Comments of Change to Win on
Notice of Proposed Rulemaking concerning
Investment Advice—Participants and Beneficiaries
*RIN1210-AB35***

Change to Win, a federation representing 5.5 million union members in five national and international labor organizations (the International Brotherhood of Teamsters, Laborers' International Union of North America, Service Employees International Union, United Farm Workers, and United Food and Commercial Workers International Union), submits these comments in response to the Department of Labor's notice of a proposed rule concerning Investment Advice to Participants and Beneficiaries in individual account and similar plans. 75 Fed. Reg. 9360 (March 2, 2010). The proposal would replace the final rule published on January 21, 2009, which was withdrawn by notice published on November 20, 2009, and would implement provisions of the statutory prohibited transaction exemption contained in the Pension Protection Act of 2006 (PPA). The proposed rule addresses the provision of investment advice to participants and beneficiaries in individual account plans such as 401(k) plans. Among other things, the proposed rule would require investment advisors to disclose their fees and obtain a certification that any computer model used to provide investment advice is objective and unbiased. Change to Win supports the new proposed rule.

Significant questions were raised concerning the scope and propriety of the rule published in January 2009 and withdrawn in November 2009. Commentators including members of Congress criticized the original rule because it expanded the exemption beyond the scope intended by the PPA and threatened to deprive workers of the objective investment advice they needed in order to protect their retirement savings.

Change to Win was established to build a new movement of working people that can meet the challenges of the global economy and restore the American Dream: a paycheck that can support a family, affordable health care, a secure retirement, and dignity on the job. We commend the Department for delaying and withdrawing the original rule and for proposing a substitute that closely adheres to the intent of the legislation and has at its heart a genuine concern for workers and the accurate and unbiased advice and information they need to safeguard their retirement investments. A continuing series of financial scandals strongly demonstrate the need for increased, significant and substantive protections

for participants. Rules implementing the exemption intend by Congress must be narrowly drawn and must require full disclosure to participants and beneficiaries even when the investment advice falls within the narrow exemption intended by Congress.

The Department has appropriately modified the original rule to provide that fees received not only by an investment adviser but also by any affiliate of the adviser or for the benefit of the adviser are included within the scope of the fee-leveling requirement. The new rule also appropriately strengthens requirements for investment advice arrangements that use computer models and, in particular, by providing that an arrangement is an eligible investment advice arrangement “if the *only* investment advice provided under the arrangement is advice . . . generated by a computer model” that complies with the other applicable provisions of the regulation.

Workers have suffered greatly from the abuses that caused the economic meltdown and the continuing string of financial scandals that pre-date the meltdown, post-date the meltdown and continue to threaten their hard-won retirement savings. We applaud the Department for promulgating a rule that puts the interests of workers and their families first. No rule is too costly or too difficult of compliance if it is necessary to protect resources that have been put aside to guarantee a dignified retirement after a life of hard work.

CONCLUSION

For these reasons, we support the proposed rule.

Respectfully submitted,

CHANGE TO WIN

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