



Investment and Advisory Services

August 7, 2017

VIA EMAIL

EBSA.FiduciaryRuleExamination@dol.gov

Office of Exemption Determinations
Employee Benefits Security Administration
Attention: D-11933
U.S. Department of Labor
200 Constitution Avenue, NW
Suite 400
Washington, DC 20210

Re: Request for Information (RIN 1210-AB82)

To Whom It May Concern:

Centaurus Financial, Inc. ("Centaurus" and references to "we" or "our") is appreciative of the opportunity to respond to the above referenced Request for Information (RFI).

It is important to reiterate that we are not, and have never been, opposed to a fiduciary standard. In practice, we are already held to this higher standard by existing regulation (and regulators) in many circumstances. Our culture as a firm further demands that our clients' best interests are served. While we fully support the spirit of this new regulation, we are strongly opposed to the rule as it is currently written.

As we have already submitted our response to RFI No. 1, please review our responses to RFI Nos. 2 – 18 as set forth below.

General Questions

2. What has the regulated community done to comply with the Rule and PTEs to date,

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particularly including the period since the June 9, 2017, applicability date? Are there market innovations that the Department should be aware of beyond those discussed herein that should be considered in making changes to the Rule?

Response: *The regulated community has spent millions of dollars fortifying various policies, procedures and processes in order to comply with partial compliance deadlines. The industry has done the same in an effort to prepare for full compliance (a guessing game thus far). As evident in industry publications and industry news, these efforts have varied in a number of ways. This is mostly due to the complexity of the rule as written coupled with the limited guidance available. This is yet another reason that supports a delay and a complete overhaul of the rule as written.*

3. Do the Rule and PTEs appropriately balance the interests of consumers in receiving broad-based investment advice while protecting them from conflicts of interest? Do they effectively allow Advisers to provide a wide range of products that can meet each investor's particular needs?

Response: *No to both questions.*

4. During the transition period from June 9, 2017, through January 1, 2018, Financial Institutions and Advisers who wish to utilize the BIC Exemption must adhere to the Impartial Conduct Standards only. Most of the questions in this RFI are intended to solicit comments on the additional exemption conditions that are currently scheduled to become applicable on January 1, 2018, such as the contract requirement for IRAs. To what extent do the incremental costs of the additional exemption conditions exceed the associated benefits and what are those costs and benefits? Are there better alternative approaches? What are the additional costs and benefits associated with such alternative approaches?

Response: *We are proponents of spending more time and money on training advisers and representatives relating to the Impartial Conduct Standards outlined in the rule. The vast number of additional requirements will cause industry providers to spend less time on this and more time on interpreting and implementing complex documentation and disclosure requirements. The costs to providers involved with these additional requirements are massive and will certainly be passed on to investors. An alternative approach would be to include some easy to understand language in existing agreements that disclose a provider's fiduciary obligations. A fiduciary education or classroom requirement for advisers and representatives could also be mandated. We must remember the spirit of the rule. This could be achieved in a much more efficient manner by keeping it simple. This will ultimately benefit retirement investors.*

Contract Requirement in BIC and Principal Transaction Exemptions

5. What is the likely impact on Advisers' and firms' compliance incentives if the Department eliminated or substantially altered the contract requirement for IRAs? What should be changed? Does compliance with the Impartial Conduct Standards need to be otherwise incentivized in the absence of the contract requirement and, if so, how?

Response: *The contract requirement in the BIC exemption for IRA's is unnecessary. Retirement Investors already enter into an agreement when establishing these relationships. These existing agreements already contain private rights of action which are in fact "compliance incentives". If a firm is doing something that would warrant a class action suit, such should be handled by a regulatory body and not a plaintiff attorney. The rule currently does not require a contract for plans covered under ERISA. This appears to be because the DOL has regulatory enforcement capabilities over ERISA plans (and not IRA's). It would seem the obvious resolution to this would be to remove IRA's from the scope of the rule altogether as alluded to in your question.*

6. What is the likely impact on Advisers' and firms' compliance incentives if the Department eliminated or substantially altered the warranty requirements? What should be changed? Does compliance with the Impartial Conduct Standards need to be otherwise incentivized in the absence of the warranty requirement and, if so, how?

Alternative Streamlined Exemption as noted above, the Department is also interested in receiving additional input from the public on possible additional and more streamlined exemption approaches that would better address marketplace innovations that may mitigate or even eliminate some kinds of potential advisory conflicts otherwise associated with recommendations of affected financial products innovations.

Response: *The items described in these warranties are already expected and should be understood when receiving services from a fiduciary. We see no need to include such in documentation that is already diluted with confusing disclosure language. Existing regulations and firm policies already contain plenty of "compliance incentives" that would relate to retirement business. The "impacts" relating to removing this provision would only be positive as such would be simpler to the investor and would allow providers to focus more time where it is warranted.*

7. Would mutual fund clean shares allow distributing Financial Institutions to develop policies and procedures that avoid compensation incentives to recommend one mutual fund over another? If not, why? What legal or practical impediments do Financial Institutions face in adding clean shares to their product offerings? How long is it anticipated to take for mutual fund providers to develop clean shares and for distributing Financial Institutions to offer them, including the time required to develop policies and procedures that take clean shares into account? What are the costs associated with developing and distributing clean shares? Have Financial Institutions encountered any operational difficulties with respect to the distribution of clean shares to the extent they are available? Do

commenters anticipate that some mutual fund providers will proceed with T-share offerings instead of, or in addition to, clean shares? If so, why?

Response: *Clean shares are certainly appealing from a high level. We would need to see these evolve before making any further comment. From a T-share standpoint, these may not be adopted as a first choice by many firms due to the absence of certain features such as rights of accumulation and free inter-family switches.*

8. How would advisers be compensated for selling fee-based annuities? Would all of the compensation come directly from the customer or would there also be payments from the insurance company? What regulatory filings are necessary for such annuities? Would payments vary depending on the characteristics of the annuity? How long is it anticipated to take for an insurance company to develop and offer a fee-based annuity? How would payments be structured? Would fee-based annuities differ from commission-based annuities in any way other than the compensation structure? How would the fees charged on these products compare to the fees charged on existing annuity products? Are there any other recent developments in the design, marketing, or distribution of annuities that could facilitate compliance with the Impartial Conduct Standards?

Response: *We defer comment to insurance carriers that may be responding.*

9. Clean shares, T-shares, and fee-based annuities are all examples of market innovations that may mitigate or even eliminate some kinds of potential advisory conflicts otherwise associated with recommendations of affected financial products. These innovations might also increase transparency of advisory and other fees to retirement investors. Are there other innovations that hold similar potential to mitigate conflicts and increase transparency for consumers? Do these or other innovations create an opportunity for a more streamlined exemption? To what extent would the innovations address the same conflicts of interest as the Department's original rulemaking?

Response: *Though there will certainly be a steady stream of new industry innovations born from this rule, we are not aware of any more significant than the ones you have already described. It should be noted, however, that the culture created at some firms sometimes outweighs innovation. When firms like ours build cultures that focus on client needs, conflicts are automatically mitigated.*

10. Could the Department base a streamlined exemption on a model set of policies and procedures, including policies and procedures suggested by firms to the Department? Are there ways to structure such a streamlined exemption that would encourage firms to provide input regarding the design of such a model set of policies and procedures? How likely would individual firms be to submit model policies and procedures suggestions to the Department? How could the Department ensure compliance with approved model policies and procedures?

Response: *We believe many firms would welcome the opportunity to work with you in developing such a streamlined exemption. Please remember, however, these policies and procedures will need to be*

generalized and encompass all business types as all firms are different. This approach would take the guess work out of much of the rule. Firms have always carried the responsibility of ensuring compliance with written supervisory procedures (WSPs). As long as these model policies were incorporated in these WSPs, the burden of compliance would continue to rest with firms.

Incorporation of Securities Regulation of Fiduciary Investment Advice

11. If the Securities and Exchange Commission or other regulators were to adopt updated standards of conduct applicable to the provision of investment advice to retail investors, could a streamlined exemption or other change be developed for advisers that comply with or are subject to those standards? To what extent does the existing regulatory regime for IRAs by the Securities and Exchange Commission, self-regulatory bodies (SROs) or other regulators provide consumer protections that could be incorporated into the Department's exemptions or that could serve as a basis for additional relief from the prohibited transaction rules?

Response: *The SEC already regulates fiduciaries pursuant to the Investment Advisers Act of 1940. This is certainly in their realm more so than the DOL in our opinion. If the SEC adopts updated standards of conduct and provides protection to investors applicable to investment advice as you mention, we see no need for an overlapping DOL rule at all. Our industry is already riddled with overlapping and conflicting regulations that do not benefit retirement investors. There is no reason to allocate tax dollars to two government organizations working toward the same goal. If the SEC takes on this responsibility, the DOL should repeal its existing rule and begin allocating tax dollars to more useful purposes.*

Principal Transactions

12. Are there ways in which the Principal Transactions Exemption could be revised or expanded to better serve investor interests and provide market flexibility? If so, how?

Response: *If the rule is ultimately adopted as written, this exemption should be combined with the BIC Exemption. To avoid confusion, there should never be a situation where two exemptions should be needed for the same account or client.*

Disclosure requirements

13. Are there ways to simplify the BIC Exemption disclosures or to focus the investor's attention on a few key issues, subject to more complete disclosure upon request? For example,

would it be helpful for the Department to develop a simple up-front model disclosure that alerts the retirement investor to the fiduciary nature of the relationship, compensation structure, and potential sources of conflicts of interest, and invites the investor to obtain additional information from a designated source at the firm? The Department would welcome the submission of any model disclosures that could serve this purpose.

Response: *Yes. We cannot emphasize enough how we would welcome a simplified disclosure developed by the DOL that all could use. This would simplify compliance and would be helpful to investors. We have favored this approach since the inception of the rule and are pleased that you are considering this. It is important to note that this would also alleviate the creation of duplicative and expensive databases in order to comply with the disclosure requirements of the rule as it is currently written.*

Contributions to Plans or IRAs

14. Should recommendations to make or increase contributions to a plan or IRA be expressly excluded from the definition of investment advice? Should there be an amendment to the Rule or streamlined exemption devoted to communications regarding contributions? If so, what conditions should apply to such an amendment or exemption?

Response: *Yes. A recommendation to contribute to a plan or IRA should be excluded from the definition of investment advice. Retirement saving in America needs to be encouraged. There should never be a reason why an adviser would think twice about making such a recommendation.*

Bank Deposits and Similar Investments

15. Should there be an amendment to the Rule or streamlined exemption for particular classes of investment transactions involving bank deposit products and HSAs? If so, what conditions should apply, and should the conditions differ from the BIC Exemption?

Response: *This response is from a broker/dealer standpoint rather than the standpoint of a small community bank. Bank Deposit Products are generally conservative and FDIC insured. Many are used as a sweep vehicle where free cash is automatically invested. The SEC already has guidelines which govern these transactions. In such cases, additional rules should be excluded. We have no comment at this time relating to Health Savings Accounts in this arena.*

Grandfathering

16. To what extent are firms and advisers relying on the existing grandfather provision? How has the provision affected the availability of advice to investors? Are there changes to the provision that would enhance its ability to minimize undue disruption and facilitate valuable advice?

Response: *We are satisfied with our current interpretation of this provision. Of course, we reserve the right to change this opinion should our interpretation change.*

PTE 84-24

17. If the Department provided an exemption for insurance intermediaries to serve as Financial Institutions under the BIC Exemption, would this facilitate advice regarding all types of annuities? Would it facilitate advice to expand the scope of PTE 84-24 to cover all types of annuities after the end of the transition period on January 1, 2018? What are the relative advantages and disadvantages of these two exemption approaches (i.e., expanding the definition of Financial Institution or expanding the types of annuities covered under PTE 84-24)? To what extent would the ongoing availability of PTE 84-24 for specified annuity products, such as fixed indexed annuities, give these products a competitive advantage vis-à-vis other products covered only by the BIC Exemption, such as mutual fund shares?

Response: *As we are a full service firm, the rule as written does not make it easy to only rely on PTE 84-24. As all annuities and all other products are covered under the BIC Exemption, we are forced to use the BIC Exemption by default. In our case, the ongoing availability of an enhanced PTE 84-24 as you describe would not provide a competitive advantage over other products, however, any financial product in the general marketplace that is exempted under PTE 84-24 would appear to benefit from a competitive advantage over other products that are covered under the BIC Exemption due to its increased requirements. That said, we believe Field Marketing Organizations would answer yes to your first two questions.*

Communications with Independent Fiduciaries with Financial Expertise

18. To the extent changes would be helpful, what are the changes and what are the issues best addressed by changes to the Rule or by providing additional relief through a prohibited transaction exemption?

Response: *We defer comment to those who have requested an expansion to the scope of this exemption.*

We appreciate your consideration of our comments. If you require any further information, please do not hesitate to contact Adam Simon at (714) 456-1790 Ext. 269.

Sincerely,

A handwritten signature in black ink, appearing to be 'AS', written in a cursive style.

Adam Simon
Vice President, Operations

On behalf of:

Ron King
Chief Executive Officer

Westley King
President

Jerry Duhovic
Chief Operating Officer

John Adams
Chief Advisory Officer

Sheri Lejman
Chief Financial Officer

Marco Fuentes
Chief Compliance Officer

Robert Castaneda
Chief Information Officer

Brian Harlan
Corporate Counsel