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September 16, 2015

Office of Exemption Determinations
Employee Benefits Security Administration, (Attn: D-11850)
U.S. Department of Labor
200 Constitution Avenue N.W. Suite 400
Washington, DC 20210

Re: ZRIN: 1210-ZA25; PTE 84-24

To Whom It May Concern:

I write today with deep concern over the proposed PTE (Prohibited Transaction Exemption) specifically regarding fixed and indexed annuities.

I have been in the annuity and life insurance business since September 1972 and as an "independent agent" have represented several companies but currently represent two carriers. A large percentage of my business is with existing clientele and referrals. The bulk of my business is writing IRA, Roth IRA and SEP IRA programs; I do not sell, nor have I ever sold, any variable annuity products.

Because of the success I have experienced over 4 decades working with the public and helping them secure retirement programs free of market loss and the like, I have acted in the best interest of the client. It is my belief most agents also act in the best interest of their clients and prospects; unfortunately there is always a very small percentage who do not; then again, we have experienced this in most businesses and even in the government for that matter.

The proposed rule will impose greater regulations that could subject agents (people like me) to punitive excise taxes, potential lawsuits from customers for bad advice due to losses (must be variable products). If there are to be "greater regulations" they must be clear and correct.

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The fixed indexed annuity market must also be protected and not undermined because of regulations proposed. The general public is best benefitted by the features indexed annuities provide; safety of principal, guaranteed lifetime income benefits to mention a couple. In just the past couple of months I have met with a significant number of people who experienced "loss" in value of their 401(k) plans and IRA's in variable type programs etc. They have welcomed the opportunity to have the option of the fixed indexed annuity to "stop the bleeding" of their retirement funds. More and more consumers are learning of the "safety features" of fixed and fixed indexed annuities, taking advantage by purchasing them, and I believe these programs can help to limit the need, at retirement time, for folks to apply for government assistance because their stock market linked IRAs have taken a hit.

With regards to payment of "commissions" under PTE; one organization I work through is an Independent Marketing Organization (IMO) and I am compensated by them for business issued. This additional income helps me to provide greater knowledge and service to my prospects and clients by funding continuing education for my practice.

When considering "reasonable compensation", the two companies I currently represent pay me a commission; <u>this commission is not deducted from the client's premium that goes into their IRA or qualified plan. One hundred percent (100%) of the premium is credited to the client's account and is not held back to compensate the agent > the annuity disclosure specifically points this out</u>. In light of the fact both companies I represent pay similar commission schedules, an industry standard commission should be considered. Commissions I receive are not just for the "initial" sale, but for my on-going "service after the sale"; you see, I continually meet with my client(s) years down the road.

Total compensation disclosure to the client will clearly complicate matters for the consumer and may cause them seek other avenues for the funds to be placed. It may also be that these "other avenues" have greater risk and could cause them to lose account value. Since 100% of their premium going into a fixed or fixed indexed annuity is credited to them, and not decreased to pay the agents commission, they have nothing to lose. For example, Joe Smith does a rollover of his IRA with $100,000 in it and places the funds into a fixed indexed annuity. Let's assume a 6% commission fee; Joe still has $100,000 in his annuity. For the first year of his annuity contract the "market" is down 7% ..... he still has $100,000 in his annuity. Had Joe placed the same funds into a brokerage type account; 1-1.5% would be paid as commission ($1,000 - $1,500 deducted from his $100,000 investment) plus a 7% downside, he loses about $7,000. His total "loss", including commission fees, is about $8,500. Joe now has $91,500 at the end of his first year. Which is better for the client, $100,000 after the first year in a "safety fixed indexed annuity" or $91,500 in a brokerage account?

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It is critical to consider all the ramifications of what is being proposed. What you might be trying do, while with good intensions, could have very negative consequences for the consumer.

Thank you for your attention and consideration.

Respectively,

Curt Klose
Independent Agent

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