Independent Insurance Agents
& Brokers of America, Inc.

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February 17, 2017

Office of Exemption Determinations
Employee Benefits Security Administration
(Attention: D-11926)
U.S. Department of Labor
200 Constitution Avenue NW, Suite 400
Washington, DC 20210.

SUBMITTED VIA www.regulations.gov

Re: Best Interest Exemption for Insurance Intermediaries (EBSA-2016-0026/ RIN 1210-ZA26)

To Whom It May Concern:

On behalf of the Independent Insurance Agents and Brokers of America, Inc. (IIABA or Big "I"), I would like to offer our comments on the Notice of Proposed Rulemaking entitled "Best Interest Exemption for Insurance Intermediaries" (EBSA-2016-0026/ RIN 1210-ZA26) issued by the Department of Labor in January 2017. The Big "I" is the nation's oldest and largest trade association of independent insurance agents and brokers, and we represent a nationwide network of approximately a quarter of a million agents, brokers, and employees. IIABA represents independent insurance agents and brokers that offer customers a choice of policies from a variety of insurance companies across all lines of insurance—property, casualty, life, health, employee benefit plans and retirement products.

The Department is proposing this exemption in connection with its regulation under Employee Retirement Income Security Act (ERISA) section 3(21)(A)(ii) and IRS Code section 4975(e)(3)(B), published in the Federal Register on April 8, 2016. The regulation, commonly referred to as the "fiduciary rule", defines who is a ''fiduciary'' when giving investment advice related to employee benefit plans governed by ERISA and certain IRAs. In conjunction with the fiduciary rule in April 2016, the Department issued certain exemptions to the rule, such as the Best Interest Contract (BIC). The intent of this proposal, as the Big "I" understands it, is to make the benefits of certain exemptions to the fiduciary rule, like those available under the BIC, available to more marketplace participants.

Many Big "I" members sell certain types of annuities via Insurance Marketing Organizations (IMOs) and therefore are impacted substantially by this proposal. IMOs play a pivotal role in providing market (and in some cases compliance) support to independent insurance agents. For example, about 60 percent of the fixed indexed annuities market is serviced through IMOs.[1] While the Big "I" appreciates the effort that has

[1] C. Tuohy, "Super-IMOs Get 16 Months To Comply With DOL Rule For Exemption," (Jan. 24, 2017). Available at: https://www.insurancenewsnet.com/innarticle/super-imos-get-16-months-comply-dol-rule

gone into this proposal and the intent of the Department to ensure that IMOs continue to be an important market distribution system of certain types of annuities, the Big “I” believes the proposal is unworkable.

The proposed exemption is so narrow that nearly all 350 IMOs currently operating in the market would fail to meet its standards, making the exemption ineffective. According to reports, under the proposal somewhere between zero and only a dozen IMOs could potentially qualify for the exemption.[2] Such a narrow exemption would nearly eliminate this competitive distribution channel, and instead create a more monopolistic distribution channel to the ultimate detriment of consumers.

On February 3, 2017, President Trump issued an executive order directing the Department to “examine” the above referenced fiduciary rule. The order further noted that the rule, “may significantly alter the manner in which Americans can receive financial advice, and may not be consistent with the policies of my Administration.” Pursuant to the order, the Department has begun to take the formal steps required to notice a delay in the implementation of the fiduciary rule. The Big “I” urges the Department to also put this proposal on hold, and withdraw or appropriately revise the proposal at a later date in a manner that is consistent with the recently issued executive order.

We would like to thank you for the opportunity to express the views of independent insurance agencies on this issue. The Big “I” appreciates the effort that has gone into this proposal. Please contact Jennifer Webb at Jennifer.Webb@iiaba.net or (202) 863-7000 should you wish to have additional information regarding our comments.

Sincerely,

Charles E. Symington, Jr.
Senior Vice President, External & Government Affairs

[2] N. Thornton, “Under proposed exemption, IMOs will need $15M in cash reserves,” (Jan. 20, 2017). Available at: http://www.benefitspro.com/2017/01/20/under-proposed-exemption-imos-will-need-15m-in-cas.