August 6, 2020

Via: https://www.regulations.gov and e-mail

The Honorable Jeanne Klinefelter Wilson
Acting Assistant Secretary
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Re: Application No. D-12011
ZRIN 1210-ZA29
Improving Investment Advice for Workers & Retirees
Docket ID #: EBSA-2020-0003
Request for a Hearing Pursuant to ERISA §n 408(a)

Dear Acting Assistant Secretary Wilson:

AARP requests the opportunity to testify at the public hearing on the Class Exemption for Improving Investment Advice for Workers & Retirees. The issues presented by this proposed Class Exemption are extremely important and, in accordance with section 408(a) of ERISA, the Secretary must afford an opportunity for a hearing before any exemption from section 406(a) and self-dealing is granted. Accordingly, AARP requests an opportunity for a hearing and to present testimony.

In issuing an exemption from ERISA’s prohibited transactions, the Secretary may not grant such an exemption unless it is (1) administratively feasible, (2) in the interests of the plan and of its participants and beneficiaries, and (3) protective of the rights of participants and beneficiaries. 29 U.S.C. § 1108(a). Having reviewed the Proposal, AARP submits that it does not meet that standard.

AARP will discuss the reasons the Proposal is neither in the interests of participants and beneficiaries nor protective of their rights. Among other issues, AARP will discuss the following:
- The estimated amount of investment losses from conflicted advice.

- Compliance with other federal and state regulatory schemes is not adequately protective of participants and beneficiaries in ERISA plans or IRAs.

- The 1975 regulation is not consistent with ERISA’s statutory text and legislative history.

- Retirement plan investments differ from personal investments because of the heavy tax subsidy and need to promote the long-term horizon required for retirement security.

- Increasing access to investment advice for individual account plan participants, alone, is not enough for a finding that this Class Exemption is in the interests of the plan and its participants.

- Research shows that financial illiteracy is widespread among the general population and particularly acute among certain groups.

- Given the difficulty in fashioning understandable disclosures, the Class Exemption should not be finalized until a model form is vetted through proper testing.

- Disclosures alone are inadequate to protect participants and beneficiaries. Even if one believed that a disclosure regime can be protective, the disclosures suggested here are inadequate.

- The proposal will encourage advisers to not always act solely in the best interests of individuals.

- Self-regulation, without directives from the Department, is inadequate to protect participants and beneficiaries.
We also request additional time of at least 10 business days after the close of the hearing to respond to any testimony. AARP looks forward to the opportunity to present its views at the hearing on the Department’s Proposal. If you have any questions, please feel free to contact me or Michele Varnhagen at 202-434-3829 or at mvarnhagen@aarp.org.

Sincerely,

[Signature]

David Certner  
Legislative Counsel and Legislative Policy Director  
Government Affairs  

cc: Lyssa Hall  
Susan Wilker  
Erin Hesse
EVIDENCE


Do Financial Advisers Influence Savings Behavior?
Jeremy Burke and Angela A. Hung, 2015 | Report

Financial Advice Markets: a Cross-Country Comparison
Jeremy Burke and Angela A. Hung, 2015 | Report

Effective Disclosures in Financial Decision Making
Angela A. Hung, Min Gong, and Jeremy Burke, 2015 | Report

Comments on a Review of a White House Report on Conflicted Investment Advice
Constantijn W.A. Panis, 2015 | Report

Rates of Return of Broker-Sold and Direct-Sold Mutual Funds
Karthik Padmanabhan, Constantijn Panis, and Timothy J. Tardiff, 2016 | Report

Review of Selected Studies and Comments in Response to the Department of Labor's Conflict of Interest 2015 Proposed Rule and Exemptions
Karthik Padmanabhan, Constantijn Panis, and Timothy J. Tardiff, 2016 | Report


Classifying Portfolio Volatility
Michael J. Brien and Constantijn W.A. Panis, 2013 | Full Report

Impacts of Conflicts of Interest in the Financial Services Industry
UK RDR and US Fiduciary Reforms 2014 | Letter from David Geale, UK Financial Conduct Authority, Head of Savings, Investments, & Distribution, to Joseph Piacentini, EBSA Chief Economist

Review of Study by Quantria Strategies, LLC
Constantijn W.A. Panis, 2014 | Memorandum

Constantijn W.A. Panis and Michael J. Brien, 2014 | Full Report


U.S. Government Accountability Office, 2014 | Letter from Charles A. Jeszeck, Director, GAO Education, Workforce, and Insurance Security Team to the Honorable George Miller, Ranking Member, House Committee on Education and the Workforce

Trust and Financial Advice
Jeremy Burke and Angela A. Hung, 2015 | Full Report

Potential Economic Effects on Individual Retirement Account Markets and Investors of DOL's Proposed Rule Concerning the Definition of a 'Fiduciary'
Steven Garber, Jeremy Burke, Angela Hung, and Eric Talley, 2015 | Full Report

The Ability of Investors to Time Purchases and Sales of Mutual Funds

Financial Asset Holdings of Households in the United States in 2013
Constantijn W.A. Panis and Michael J. Brien, 2016 | Abstract | Full Report

Rates of Return of Broker-Sold and Direct-Sold Mutual Funds
Karthik Padmanabhan, Constantijn Panis, and Timothy J. Tardiff, 2016 | Abstract | Report

Review of Selected Studies and Comments in Response to the Department of Labor's Conflict of Interest 2015 Proposed Rule and Exemptions
Karthik Padmanabhan, Constantijn Panis, and Timothy J. Tardiff, 2016 | Abstract | Report
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Steven Garber, Jeremy Burke, Angela Hung, and Eric Talley, 2015 | Full Report

Brokerage Accounts in the United States
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Review of Study by Quantria Strategies, LLC
Constantijn W.A. Panis, 2014 | Memorandum

Classifying Portfolio Volatility
Michael J. Brien and Constantijn W.A. Panis, 2013 | Full Report


Collette Thayer, *Comparison of 401(k) Participants’ Understanding of Model Fee Disclosure Forms Developed by the Department of Labor and AARP* (Sept. 2008), http://www.aarp.org/research/surveys/stats/surveys/public/articles/fee_disclosure.html.


