



**Submitted via Federal Rulemaking Portal: [www.regulations.gov](http://www.regulations.gov)**

August 28, 2020

Ms. Jeanne Klinefelter Wilson  
Acting Assistant Secretary  
Employee Benefits Security Administration  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Suite 400  
Washington, DC 20210

Re: Docket ID Number: EBSA – 2020 – 0003  
RIN 1210-ZA29  
Improving Investment Advice for Workers and Retirees

Dear Ms. Wilson:

Please allow this to serve as a request from Cetera Financial Group, Inc. (“Cetera”) to have a representative of our firm testify at a public hearing regarding adoption of a proposed Class Exemption regarding investment advice to workers and retirees. Cetera submitted written comments on the proposed exemption on August 6, 2020, and we would like to present additional information at the hearing which has been scheduled for September 3 and 4, 2020.

The following is a summary of the comments we will offer if granted an opportunity to testify at the hearing:

1. **Adoption of the proposed Class Exemption.** We support the overall approach in the Class Exemption proposed by the Department and believe that it should be adopted as quickly as practicable. The enforcement policy articulated in Field Assistance Bulletin 2018-02 was helpful as an interim measure, but there is still substantial uncertainty regarding compliance practices for Financial Institutions providing investment advice to retirement investors. This has led to practical difficulties for providers of advice.
2. **Reinterpretation of the “Five – Part Test” for determining fiduciary status.** The comments published by the Department in connection with the proposed Class Exemption would materially change the standards for determining when Financial Professionals are deemed to be acting as investment advice fiduciaries. In particular, the current requirement that there be a “mutual understanding” about the scope of services provided to the investor would be substantially diluted. This creates uncertainty and practical difficulties for both Financial Institutions and retirement investors, and may lead Financial Institutions to limit their product and service offerings to retirement investors.

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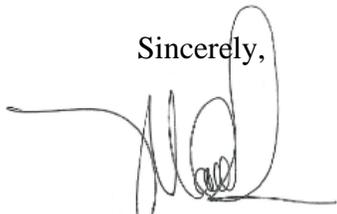
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3. **Ongoing monitoring of investment recommendations.** The commentary accompanying the proposed Class Exemption indicates that there are circumstances in which Financial Institutions would be required to provide ongoing monitoring of investment recommendations in circumstances where that is not necessarily the intention of the parties. This creates potential conflicts between the terms of the proposed exemption and the operation of both state laws and the provisions of the Investment Advisers Act, and presents providers of financial advice with difficult choices in managing how they provide services to investors.

If we are granted an opportunity to testify at the hearing, Cetera will be represented by Mark Quinn, our Director of Regulatory Affairs. Mr. Quinn can be reached at the address below, by email at [mark.quinn@cetera.com](mailto:mark.quinn@cetera.com), or by telephone at 619.702.9600. Given that the hearing will be conducted virtually and we are located in California, we request that our appearance be scheduled during an afternoon session.

My thanks for your consideration. If I may offer any further information, either in advance of the hearing or after it concludes, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Quinn', with a long horizontal flourish extending to the left.

Mark Quinn  
Director of Regulatory Affairs