

Office of Exemption Determinations
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Ave., N.W.
Suite 400
Washington, D.C. 20210

Re: Request to testify; Outline of proposed issues to be raised in testimony
Application No. D-12011
Improving Investment Advice for Workers & Retirees
Submitted: August 28, 2020

To Whom It May Concern:

On behalf of the Pension Rights Center,¹ I request that I be permitted to present oral testimony next week at the scheduled hearing on class exemption “Improving Advice for Workers and Retirees.” We have previously submitted written comments and requested that the Department hold a hearing on this important proposed class exemption. See <https://www.regulations.gov/document?D=EBSA-2020-0003-0038> (submitted on August 6, 2020).

Your invitation to request to participate in the hearing indicated that our testimony should be focused on factual issues relevant to the proposed exemption and has asked us to submit an outline of the issues that we would intend to cover at the hearing. It also asks for contract information, which we provide at the end of this request.

Outline of Issues We Propose To Address in Testimony

1. The Pension Rights Center provides legal and non-legal assistance to thousands of participants in both defined benefit and defined contribution plans each year. We hear their stories, listen to their concerns, and help them resolve problems. We also use our counseling and legal work to inform our policy efforts to improve retirement savings outcomes for all Americans. Over the last decade, we have heard from and worked with individual participants in workplace retirement plans who have had difficulties with getting sound, non-conflicted investment advice. We would share some of these stories at the hearing and relate them to ways to improve the exemption to better protect participants in ERISA plans and IRAs from conflicted investment advice. We would also plan to discuss some of the stories in the context of academic research on conflicts of interest and financial literacy.

¹ The Pension Rights Center is a Washington, D.C. nonprofit consumer organization that has been working for more than four decades to protect and promote the retirement security of American workers, retirees, and their families. The Center provides legal and strategic advice on retirement income issues, and helps individuals communicate their concerns about these issues to policymakers, the public, and the courts. We have previously commented on issues related to this prohibited transaction exemption before the Department and as invited witnesses at a congressional hearing. See footnote 2, *infra*.

2. We will discuss the difficulty of monitoring compliance with the conditions of the proposed exemption.
3. We will discuss the possibility that some investment fiduciaries will be able to comply literally with the exemption and still provide dangerously conflicted investment advice, reducing retirement savings outcomes, and we will make some recommendations about how the exemption might be modified to address these concerns.

Contact Information:

I will provide the testimony of the Pension Rights Center if it is invited to participate in the hearing next week.

My e-mail address is nps32@drexel.edu. My phone number is 205-410-0989.

Thank you.

Sincerely,

Norman Stein
Senior Policy Advisor
Pension Rights Center

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(for identification purposes only)