

Via Federal eRulemaking Portal

November 28, 2023

Office of Regulations and Interpretations
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Avenue, NW, Room N-5655
Washington, DC 20210

Re: Hearing on Retirement Security Rule: Definition of an Investment Advice Fiduciary and Associated Prohibited Transaction Exemption Amendments, Docket ID EBSA–2023–0014¹

Ladies and Gentlemen:

The Financial Services Institute (FSI) respectfully requests the opportunity to testify at the hearing scheduled to begin on December 12, 2023, via WebEx, on the Department of Labor’s (“DOL”) proposal entitled Retirement Security Rule: Definition of an Investment Advice Fiduciary (the “Proposal”).²

FSI is an industry group that serves as the voice of independent broker-dealers and independent financial advisors. Established in January 2004, FSI’s mission is to create a healthier regulatory environment for its members through effective advocacy, education, and public awareness. The independent financial services community has been an important and active part of the lives of Main Street investors for more than 40 years. In the US, there are more than 160,000 independent financial advisors, which account for approximately 53 percent of all producing registered representatives.³ These financial advisors are self-employed independent contractors, rather than employees of the Independent Broker-Dealers (“IBD”). FSI’s IBD member firms provide business support to independent financial advisors in addition to supervising their business practices and arranging for the execution and clearing of customer transactions. FSI members make substantial contributions to our nation’s economy.

Independent financial advisors are small-business owners and job creators with strong ties to their communities. These financial advisors provide comprehensive and affordable financial services that help millions of individuals, families, small businesses, associations, organizations, and retirement plans. Their services include financial education, planning, implementation, and investment monitoring. Due to their unique business model, FSI members and their affiliated

¹ Hearing on Retirement Security Rule: Definition of an Investment Advice Fiduciary and Associated Prohibited Transaction Exemption Amendments, 88 FR 80648 (Nov. 20, 2023), available at <https://www.federalregister.gov/documents/2023/11/20/2023-25522/hearing-on-retirement-security-rule-definition-of-an-investment-advice-fiduciary-and-associated>

² Retirement Security Rule: Definition of an Investment Advice Fiduciary, 88 FR 75890 (Nov. 3, 2023), available at <https://www.federalregister.gov/documents/2023/11/03/2023-23779/retirement-security-rule-definition-of-an-investment-advice-fiduciary>

³ Cerulli Associates, Advisor Headcount 2016.

financial advisors are especially well positioned to provide Main Street Americans with the affordable financial advice, products, and services necessary to achieve their investment goals.

FSI has been an active participant in the regulatory process on this issue since 2010. While FSI has not yet had the opportunity to prepare written comments prior to this scheduled hearing, and DOL has rejected requests to move the hearing until after the comment period closes to allow adequate time to review the Proposal and provide meaningful input, we remain committed to engaging at every opportunity in this process given that the Proposal impacts thousands of FSI members and the Main Street Americans who our members assist in planning for a dignified retirement. Our representative at the hearing will be Mark Smith, Of Counsel, at Eversheds Sutherland.

Thank you for your consideration. We look forward to testifying and providing comments on this important proposal. Should you have any questions, please contact me at (202) 379-0943.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dale E. Brown". The signature is fluid and cursive, with the first name "Dale" being the most prominent.

Dale E. Brown, CAE
President & CEO

cc (via email): W. Mark Smith, Of Counsel, Eversheds Sutherland