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From: david_benjamin@newyorklife.com [mailto:david_benjamin@newyorklife.com]
Sent: Sunday, June 28, 2015 8:52 PM
To: EBSA, E-ORI - EBSA
Subject: RIN 1210-AB32 - U.S. Department of Labor's Proposed Fiduciary Rule

Mr. David Benjamin
59 Hilltop Drive
North Salem, NY 10560-2214

6/28/2015

Dear Secretary of Labor Perez:

Secretary Perez,

I am writing to you to express my concern with the proposed fiduciary rule (RIN 1210-AB32).

I work for New York Life Insurance Company. We are a 170 year old mutual life insurer, which means we are owned by our participating policyholders and every decision we make is focused on being there decades from now to pay our promises to our policyholders. We have no shareholders.

The current proposal is unworkable for insurers who offer lifetime income guarantees to retirees, and our agents who provide guidance as to how a saver approaching retirement can convert savings to income and swap risk for guarantees. New York Life pays out more than $1 billion per year in guaranteed lifetime income to policyholders; essentially this is a private sector version of Social Security or an individual pension plan. No matter how long they live, we keep paying clients a guaranteed monthly income. We also provide guidance and guarantees to savers who are not ready to begin receiving income from their savings, but seek to keep their savings in a product that offers both growth potential and a guaranteed floor below which their savings will not fall.

The proposed rule poses many problems to those of us who provide such guidance and guarantees.

First, the proposal restricts our agents from offering guidance to savers who are rolling over funds from an IRA or 401k to a NYL guaranteed product. The guidance of our agents is crucial for savers who are making one of the most important financial decision of their lives. Savers and retirees need more guidance, not less.

Second, the rule has a bias towards cheap, not strong. In the case of annuities, cheaper financial promises are riskier, generally backed by flimsier reserves and more aggressive investments by the institutions backing the cheap promise. Strong annuity guarantees, backed by large reserves and conservative investments tend to cost more. It's basic math. With longevity increasing, the need for strong guarantees also increases. In fact, your own Department of Labor has advised 401k plans that if they offer a guaranteed annuity payout option, they must offer the "safest available annuity". We agree. We suggest you change the proposed rule to reflect the reality of math, longevity and consistency with your department's other rules.

Third, the rule implies that selling proprietary products is a conflict of interest. Our agents sell NYL products because we have been keeping our promises to policyholders for 170 years. Because of 400 life insurers in the U.S., we have the highest rating for financial strength. Because we are mutual company owned by our policyholders. That is not a "conflict of interest"; rather, it is a shared interest between advisor and client in creating a lifelong professional relationship.

Fourth, the rule is so vague that companies like ours, where we pride ourselves on integrity, don't know how to comply. What do you mean by "best interest" and "reasonable compensation". Please provide specific examples. We want to do the right thing, and clearly want to avoid the potential for lawsuits, but the vague definitions would paralyze us from providing new guidance and new guarantees to savers and retirees.

Finally, the rule mandates the impossible, asking our agents to provide clients with information regarding the total cost and future performance of each asset being sold over 1, 5 and 10 year periods. No one can predict the future performance of variable products. That is why it is called "risk"; no one know how it will turn out. In fact, it is a direct violation of securities law to offer such predictions.

Please consider re-writing this unworkable rule. So our agents can provide guidance and guarantees to savers. So the rule stops favoring cheap promises over strong guarantees. So representing a company is sign of trust. So the rules are clear and consistent and legal and workable.

Thank you for considering my comments.

Sincerely,

Mr. David Benjamin