From: Jim Cornwall [mailto:jim@executivebrokerage.com]
Sent: Monday, July 20, 2015 4:20 PM
To: EBSA, E-ORI - EBSA
Subject: RIN 1210-AB32

To Whom It May Concern:

I am submitting this e-mail of opposition to the DOL's proposed uniform fiduciary standard as concerns fixed life insurance products, especially fixed annuities. To illustrate the harm this rule will bring to consumers please refer to the real world example cited below. This example compares the efficient, well regulated sales process currently in effect to the convoluted process that will result from the proposed DOL rule, a rule that will make it much more difficult for middle-class Americans to obtain advice in purchasing a product that should be a critical part of their retirement plan.
Current Sales Process: Suppose a potential customer is referred to one of our insurance agents to discuss the merits of a fixed annuity. That individual desires to put $50,000 in a financial vehicle that minimizes or eliminates the risk to principal. After **completing a thorough suitability review, our agent determines that a fixed annuity paying 3.50% is best** for the client who purchases the annuity. The person is happy because the money is safe, it is adequately liquid and is earning three times what a bank CD would earn. The client is so pleased he/she refers several clients to our agent in the future. Total commissions paid to the agent and the Independent Marketing Organization distributing the product equal 4.0%, but this does not come from the customer; his/her account opens with $50,000 on day one and the commissions are factored in to the equation when the insurance company determines the 3.50% rate. **Result – he/she earns 3.50%.**

Sales Process after the DOL Rule is implemented: The same potential customer does not become a client because he/she objects to several components of the fiduciary sales transaction. 1) A $2000 – $3000 planning fee (the amount typically charged by most fee-only planners). (2) He/she simply wants to find a safe home for this $50,000, not a complete financial plan. (3)He/she does not want to pay an ongoing 1.0% – 3.0% fee to put this $50,000 "under management". Even if this person were to purchase the annuity and the upfront planning fee is waived, he/she pays, at a minimum, 1% per year for the life of the contract - which could very well be the client's lifetime - which very well could be a *very* long time. After four short years he/she is stuck paying higher fees for life (bear in mind, the commissions paid under the current model total 4.0% for the life of the contract). These higher fees hurt the client. Under the proposed standard the client has two options; **purchase the annuity and earn 1% less each year for the life of the contract than could be earned under the present process or place the money in a bank vehicle and earn 1% instead of 3.50%.**
The proposed commission disclosure is likely to cause the client to delay the annuity purchase due to the $2,000 price tag ($50,000 times 4% total commission) and remain at the bank earning 1% or less for a long period of time.

While commission disclosures seem like a great idea, they can work against the client if they prove to be the stumbling block to making a more profitable decision with one's money.

Other Concerns with the proposed rule:
Increased Liability for the agent and the insurance company. Experienced agents may retire early, deciding that an additional layer of regulation, cost and liability on top of the existing framework might tip the scale in favor of early retirement (the average age of professional insurance agent is in the mid-fifties). Insurance companies manufacturing the fixed annuity products may decide there's too much

tail risk from class-action lawsuits and may exit the market entirely. It is already difficult for them to make profits in this low interest rate environment which has persisted for quite some time. Numerous carriers have left the market due to low profitability. This rule will make more carriers consider dropping out. How can an agent working for a career company (Northwestern Mutual, Mass Mutual, New York Life etc) possibly act as a fiduciary and claim to offer products from all sources when in reality they primarily sell product from their primary company? **Result – fewer agents and fewer insurance companies offering product.**

Increased Reporting Costs: Even the large RIA's think the rule will be too costly to implement.

Dodd-Frank has mandated the SEC address this issue.

Treating upfront commissions as a "bad" thing is not accurate: In addition to harming the client directly with higher fees, forcing trail commissions on the existing, mostly upfront commission-based distribution channel will make it very difficult for new insurance agents to survive. A very small percentage of agents entering the field will succeed and make it a career under the current system – the percentage of agents who survive is approximately 5%. If upfront commissions are discouraged new agents will have a difficult time generating the revenue needed in the early years of their careers. A quick review of a mutual fund prospectus shows that A shares (commissions paid by the client upfront) are cheaper in the long run than C shares or B shares.
Finally, this proposed rule completely ignores the fact that commissions are already as low as they can possibly be. Insurance companies automatically pay the lowest possible commission on each transaction in order to maximize profits; If they could attract premium dollars for zero commission they would do so – it would be the ideal situation. The free market automatically ensures that commissions will be no higher than necessary to attract the desired premium. What makes a regulator think they are better suited to determine a "reasonable" commission than a marketplace which judges millions upon millions of transactions, one at a time, constantly making sure the commission is just enough to get the premium in the door?

I sincerely hope the DOL reconsiders implementation of this harmful rule. Advisors will not be able to afford meeting with clients who have less than $250,000. In the United Kingdom, a country specifically listed in the proposed rule as a "success story", the major insurance company Aviva now has an $800,000 minimum requirement to meet an advisor face-to-face. This rule will harm the middle class and an entire distribution system comprised of good intention, hard-working Americans.

Sincerely,

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