-----Original Message-----
To: EBSA, E-ORI - EBSA
Subject: RIN 1210-AB32 - U.S. Department of Labor's Proposed Fiduciary Rule

Dear Secretary of Labor Perez:

Dear Secretary Perez:

I write to express my concern with the Department of Labor's proposed fiduciary rule (RIN 1210-AB32).

I work for New York Life Insurance Company. We are a 170 year old mutual life insurer. We have no shareholders – which allows us to focus on the long term and means we have no constituency other than our policyholders. Our focus is on meeting our promises in 10, 20 or even 50 years to see our policyholders through retirement and pay benefits to their beneficiaries.

While New York Life supports the DOL's goal in developing a best interest standard, the current proposal is unworkable. This proposal will impede the ability of savers to obtain lifetime income guarantees and to receive guidance from our expert career agents about how to avoid outliving their savings. The lifetime income products that New York Life offers help retirees replicate the private sector pensions that previous generations relied upon. No matter how long our clients live, we pay them a guaranteed income each month. And we pay out more than $1 billion in such payments each year.

The guidance of our agents is crucial for savers who are making one of the most important financial decisions of their lives. Savers and retirees need more guidance, not less.

Under this rule, to provide advice in the "best interest," the adviser must provide advice that: "Reflects the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person would exercise based on the investment objectives, risk tolerance, financial circumstances, and needs of the retirement investor, without regard to the financial or other interest of the adviser, financial institution, any affiliate or other party."

PROBLEMS WITH PROPOSAL
The proposed rule would restrict access to such guidance and guarantees in several ways:

1. Could Effectively Prohibit Access to Top Quality Proprietary Products like Lifetime Income: The rule limits retirees' access to guidance and proprietary products, including New York Life's lifetime income guarantees. In contrast to the implications of DOL's proposal, the sale of New York Life products by a New York Life agent is not a "conflict of interest." Our agents have been trained to understand and explain our products. Our agents sell New York Life products because we have been keeping our promises to policyholders for 170 years and because New York Life is one of only two life insurers with the highest possible financial strength ratings from all four major credit rating agencies.

While the Department of Labor has long recognized the value of guaranteed income products and pursued policies to promote their use, this rule would have the opposite effect.

2. Limits Access for Low Balance Savers: The proposal will be particularly harmful to low balance savers, as the proposal implies that commission-based compensation is incompatible with a client's best interest.

However, commissions are the most affordable way for low balance savers to pay for investment advice and access certain products. For example, commissions are the only compensation structure that is compatible with guaranteed lifetime income products, which are designed to spend down assets. Over the 10-15 year life of our lifetime income products, an agent's one-time upfront commission translates to about .25 - .5% annually, which is much more affordable than the typical 1% annual fee for managed accounts.

If small savers are unable to access commission-based advice, they will be forced to move into more expensive advisory models or access a roboadvisor and lose access to personalized financial advice from a trained professional.

CHANGES ARE NEEDED
Because I support the concept of a best interest standard, I urge the Department of Labor to make the following changes to make the proposed rule workable for savers and retirees:

1. Explicitly and affirmatively clarify that the sale of proprietary products and receipt of differential compensation (e.g. commissions and health benefits) are consistent with the Impartial Conduct Standard required under the Best Interest Contract Exemption (BICE) and revised PTE 84-24.

2. Remove language creating an unworkable standard that threatens the sale of proprietary products by commissioned professionals. The proposed rule states that to qualify for the BICE and the Impartial Conducts Standard included in the revised PTE 84-24, the adviser must provide advice that is "without regard to the financial or other interest of the adviser, financial institution, any affiliate or other party." Removing this language and inserting language consistent with the existing ERISA duties of prudence and loyalty under Section 404, with its well-established, judicially sanctioned safe harbors, would help fix a key problem that makes the rule unworkable and creates a chilling effect on much needed retirement planning assistance and guaranteed income products for the middle class.

3. Provide clear guidance and examples regarding compliant sales practices involving proprietary products and differential compensation.

I urge the Department to re-write this unworkable rule to achieve the goal of helping American retirees achieve a secure retirement, rather than undermining that goal. As written, the rule significantly limits American retirees' access to expert, individualized guidance and to lifetime income guarantees. Finally, I encourage the Department to carefully consider New York Life Insurance Company's more comprehensive comment letter that will be submitted to the Department.

Thank you for considering my comments.

Sincerely,