

PUBLIC SUBMISSION

Comments Due: January 02, 2024
Submission Type: API

Docket: EBSA-2023-0014
Definition of an Investment Advice Fiduciary

Comment On: EBSA-2023-0014-0001
Retirement Security Rule: Definition of an Investment Advice Fiduciary

Document: 1210-AC02 petition 010

General Comment

Office of Regulations and Interpretations Office of Exemption Determinations
Employee Benefits Security Administration Room N-5655 US Department of Labor
200 Constitution Avenue, NW Washington, DC 20210 Re: RIN 1210-AC02:
Definition of an Investment Advice Fiduciary Application No. D-12057: Proposed
Amendment to PTE 2020-02 Application No. D-12060: Proposed Amendment to PTE
84-24 Dear Assistant Secretary Gomez: I am an experienced independent insurance
producer and have chosen to devote my professional talents and energies to serving
consumers in my local community by providing information and access to insured
products, including fixed and fixed index annuity products. I am taking this
opportunity to comment on the Department of Labor's recent proposal to re-define
persons who act as investment advice fiduciaries to ERISA plans and IRAs, and
related proposals to amend Prohibited Transaction Exemptions PTE 2020-02 and PTE
84-24 (collectively, the "Proposal"). The Department's Proposal jeopardizes the
retirement security of hardworking Americans by denying access to the guarantees
against investment market volatility and longevity risk that only fixed and fixed index
annuity products can provide. The Proposal is based on dangerously flawed
assumptions and should be withdrawn in its entirety. Please consider the key facts
listed below, to which I am personally attesting based on my day-to-day experience
meeting with and assisting consumers who are nearing or who have entered
retirement. - Many, if not most, working class consumers in my community prefer to
receive financial recommendations by working with financial professionals like me
who are compensated on a transaction basis, and are not interested in or in a situation
to benefit from the services of a fee-based adviser. - Unless withdrawn, the Proposal
will undermine the security of countless retirement savers by depriving them of access
to guaranteed annuity products. - The Proposal would mire insurance producers like
me in red tape and burdensome compliance costs and would impose unreasonable

levels of liability that would dramatically increase the costs of continuing in business. The Proposal would also impose new barriers to entry on the part of young professionals seeking to enter the field, thereby making it more difficult to hire and train qualified personnel. My clients today are well served by receiving access to information and products from me and my fellow insurance producers under standards set forth by the National Association of Insurance Commissioners (“NAIC”) model regulation governing the recommendation of annuities, which has been widely adopted by the states. Under the NAIC model, I provide annuity recommendations that are in the best interest of consumers, and that are a fit for their needs. I receive training on and am knowledgeable about the products I recommend. The Department of Labor’s Proposal would severely compromise the distribution of information and the provision of fixed and fixed annuity product access to consumers by effectively making it impossible for independent producers to continue to do business in an effective manner. My reputation in the community for delivering value-added solutions that serve clients’ retirement security needs means clients know they will receive best interest recommendations from me. The ERISA fiduciary standard that the Proposal would extend to my recommendations would only serve to disrupt the operation of business by imposing unnecessary and unreasonable hurdles on how I earn a living and would harm my clients. The Proposal is fatally flawed and needs to be withdrawn in its entirety. Thank you for this opportunity to comment.