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Definition of an Investment Advice Fiduciary

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Retirement Security Rule: Definition of an Investment Advice Fiduciary

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Submitter Information

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General Comment

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The Honorable Lisa M. Gomez
Assistant Secretary of Labor
Employee Benefits Security Administration
U. S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Re: RIN 1210-AC02

Assistant Secretary Gomez:

I am writing to express serious concerns with the Department of Labor's (the "Department") proposed Retirement Security Rule: Definition of an Investment Advice Fiduciary and Associated Prohibited Transaction Exemption Amendments (collectively, the "Proposal"). For the reasons summarized here and explained in more detail in our comments below, I strongly urge the Department to withdraw this current Proposal as it will have unintended consequences for the consumers it is trying to protect.

I have over 40 years of service to the public as a financial security professional, I am dedicated to assisting American families, individuals, and small businesses within my community. I provide advice to create holistic financial plans that serve consumers best interests for a secure financial future. Independent research by Ernst and Young found that a combination of life insurance, investments, and annuities deliver objectively better outcomes for consumers. As a member of Finseca, I believe deeply in the mission of financial security for all.

The Proposal, however, will negatively impact the financial security profession by limiting the ability to provide holistic retirement planning and the essential financial security that clients are seeking. It significantly broadens the definition of investment fiduciary advice while restricting the available exemptions relied upon by financial security advisors. The Proposal overlooks the consequences both for the financial security profession and the Americans who depend on us.

The Proposal Limits Access to Advice
Imposing a fiduciary-only, fee-only model for advice would exclude retirement savers, especially those with low- and middle-income, who lack the required account minimum, denying them essential retirement advice. The proposal will lead to increased costs for financial advice, coupled with a reduction in product choices and a decrease in the number of available advisors. These risks are not theoretical—the Department's 2016 fiduciary regulation ("2016 Rule") caused reduced access to financial assistance for as many as 10 million accounts holding $900 billion in assets.

The Proposal Suggests My Work is "Junk"
The service I provide to my clients and their families is valued as indispensable for their families and businesses. Consumer choice of transparent fees for accessing that advice is NOT a "junk fee." One size does not fit all: commission models better serve some retirement savers, while fee-based cost models better serve others. Consumer should have access to both models to choose what best serves their individual needs.

The Proposal Seeks to Ignore New Protections in Place Developed by Federal and State Regulators
The playing field has changed since the DOL's last attempt in 2016. The SEC, FINRA and nearly all state insurance regulators have adopted new guidance and regulations that improve consumer protections, including adopting best interest standards, and enhanced disclosures. The SEC's Regulation Best Interest has been in effect since 2019, and the NAIC Model Act for Annuities has been adopted by 40 states. What evidence do you have of a widespread problem, inefficiency, or gap in the current

regulatory structure? As it stands, the Proposal will drive confusion and limit access to service for consumers.

I urge the Department to withdraw the Proposal and its' amendments and encourage DOL to review the guidelines already in place with the SEC and NAIC. Work to tighten what is already in place and avoid a third layer of regulation that conflicts with what is already in place.

Thank you for your consideration.

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