FACC
Federation of Americans for Consumer Choice

The Voice for Independent Distribution of
Life, Long Term Care, and Annuities

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FACC URGES DOL TO WITHDRAW OR REWORK INVESTMENT ADVICE RULE

Americans Seeking Safety & Protection Are Biggest Losers

Phoenix, AZ, August 12, 2020 - The Federation of Americans for Consumer Choice (FACC), voicing deep concerns with the Department of Labor's "Improving Investment Advice for Workers & Retirees" proposal, is urging DOL to reconsider its proposal. FACC submitted written comments to DOL outlining how the proposal will significantly disrupt the fixed insurance marketplace, turn traditional insurance agents into fiduciaries, and create unworkable hurdles for independent distribution.

"This is a complicated stuff and we think industry across the board has made clear in its comment letters that the proposal has many serious flaws and just is not ready to be finalized" observed Dwight Carter, FACC President and Owner of Financial Security Advocates, an North Carolina based marketing organization.

In its submission, FACC highlighted its two biggest concerns with the proposed class exemption. FACC asserted the Department took "a novel and expansive view" of the 5-part fiduciary test such that many insurance agents will suddenly be treated as fiduciaries contrary to the holding of the Fifth Circuit decision which struck down the 2016 Fiduciary Rule.

FACC asserted also that the newly proposed class exemption failed to accord "adequate deference" to the National Association of Insurance Commissioner's (NAIC's) model best interest regulation which is contrary to the stated objective of harmonization of regulation and could prove highly detrimental to independent agents selling fixed products if deemed to be fiduciaries.

"Independent insurance agents can't be forced to meet standards and follow procedures that are actually designed for the securities industry," commented Kim O'Brien, the organization's CEO. "We are very concerned," O'Brien continued, "that DOL is not fulfilling its supposed objective which is to preserve choices for consumers and instead this will disrupt the marketplace rather than protect consumers and enhance their purchasing experience."

Mike Dressander, FACC Vice President and Managing Partner of Advisors Ignite based in Illinois, said FACC is also concerned about DOL's new position on rollovers out of 401(k) plans, stating "the DOL threatens to upset an insurance professional's current ability to help consumers access annuity products with lifetime guarantees because the Department makes no distinction between advice to roll assets out of an employer plan and assisting retirement savers in establishing an IRA." In its comment letter, FACC urged the Department to clarify its position on rollovers so consumers can decide to withdraw employer-plan funds and purchase an IRA without the transaction being swept into ERISA.

Kim O'Brien adds "FACC questions if a DOL rule is even needed anymore with adoption of Regulation Best Interest by the SEC and adoption of the NAIC's model regulation. But the key is that any proposal should preserve consumer choice and recognize legitimate differences between segments of industry. Right now, the DOL rule is just too tilted to the securities industry and that is a disservice to the American consumer who today more than ever needs quality help and product choices from experienced insurance professionals."

Carter emphasized, "this present proposal is flawed and just not in keeping with the prior court decision nor principles set forth by this administration so we hope the DOL will take this one back to the drawing board."

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To read the entire comment, please visit www.FACChoice.com and click on our advocacy page.

If you would like more information about this topic, please contact Kim O'Brien at 414-332-9312 or email Kim@FACChoice.com.