

August 7, 2017

Filed Electronically

Office of Exemption Determinations
U.S Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Re: Request for Information Regarding the Fiduciary Rule and Prohibited Transaction Exemptions (RIN 1210-AB82)

Dear Sir or Madam:

Great-West Financial (Great-West) appreciates the opportunity to comment on the Request for Information Regarding the Fiduciary Rule and Prohibited Transaction Exemption (RFI) published on July 6, 2017.¹

Great-West has been at the forefront of developing innovative products and investments that help workers accumulate and manage income in retirement. Great-West provides insurance, annuity and investment products to many thousands of benefit plans and IRAs through its relationship with Empower Retirement, our related retirement business, and among independent broker-dealers, banks, and investment advisers alike. Great-West's annuity and life insurance products are complemented by a complex of mutual funds offered through Great-West Funds. Great-West Funds are offered through Great-West's annuity and life insurance products and directly to retirement plans and IRAs.

Background and Introduction

We share the concerns that were raised in President Trump's Memorandum (Memo) dated February 3, 2017². Specifically, we are concerned that the current version of the Definition of the Term "Fiduciary"; Conflict of Interest Rule³ (Rule) may adversely affect the ability of Americans to gain access to retirement information and financial advice.

¹ 82 Fed. Reg. 31279 (July 7, 2017)

² 82 Fed. Reg. 9,675 (February 7, 2017)

³ 81 Fed. Reg. 20,945 (April 8, 2016)

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The Memo directed the DOL to consider the following three questions:

1. Whether the anticipated applicability of the Rule has harmed or is likely to harm investors due to a reduction of Americans' access to certain retirement savings offerings, retirement product structures, retirement savings information, or related financial advice;
2. Whether the anticipated applicability of the Rule has resulted in dislocations or disruptions within the retirement services industry that may adversely affect investors or retirees; and
3. Whether the Rule is likely to cause an increase in litigation and an increase in the prices that investors and retirees must pay to gain access to retirement services.

If an affirmative determination is made as to any of the questions raised, then the DOL must rescind or revise the Rule. We would also note the DOL was specifically directed to prepare an updated economic and legal analysis concerning the likely impact of the Rule.

In the RFI, the DOL asks for additional input from the public about possible additional exemption approaches or changes to the Rule. As we noted in a comment letter submitted on April 12, 2017, we believe that all of the questions from the Memo must be answered in the affirmative, and in our comments below we offer our thoughts and suggestions.

Coordination with the SEC and FINRA and Consultation with State Regulators

We believe that a uniform standard of conduct should apply to all investments regardless of whether the investments are held by retirement investors or retail investors. Investors do not view the duties owed to them as differing depending on the nature of the investment. The expectation is that the same standards of care should apply to their 401(k) balances, their IRA holdings and their retail brokerage account, and anything less results in needless confusion.

We strongly urge the DOL to consult with other financial services regulators. It is especially imperative that there be a closely coordinated rulemaking effort between DOL and the Securities and Exchange Commission (SEC). The SEC has significant expertise, experience and resources with respect to drafting regulations overseeing the financial service industry. The DOL should draw upon this resource in the formation of a new best interest conduct standard. This coordination would result in a consistent and uniform standard of conduct required of financial advisors by both the DOL and SEC that would be applied to many investment products, not just those related to retirement savings. This common standard could also be included in any prohibited transaction exemption (PTE) drafted by the DOL.

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The SEC has indicated their interest in addressing the standards of conduct for investment advisers and broker-dealers. In a Public Statement posted on the SEC website on June 1, 2017, SEC Chairman Jay Clayton expressed interest in working with DOL on this issue and noted: "I believe clarity and consistency — and, in areas overseen by more than one regulatory body, coordination — are key elements of effective oversight and regulation".

We think it's also imperative that the DOL coordinate with the Financial Industry Regulatory Authority (FINRA). As evidenced in its preamble to the rule, the DOL appeared to rely heavily on current FINRA rules and standards. We appreciate this approach as FINRA significantly influences Great-West's compliance regime. But we did not see strong evidence that there was coordination between the DOL and FINRA in the fiduciary rulemaking process. By developing the Rule independently of FINRA, we believe the DOL missed a tremendous opportunity to lessen confusion in the industry and greatly improve retirement investor understanding.

In addition, on the July 26, 2017 call with the National Association of Insurance Commissioners Annuity Suitability (A) Working Group call, the DOL indicated its intent to work with other regulators, including insurance regulators. We wholeheartedly agree.

However, we urge the DOL to consult not only state insurance regulators but state securities regulators. Nevada recently implemented a new law which classifies broker-dealers and registered investment advisers as "financial planners" and assigns a fiduciary standard to their day-to-day interactions. Connecticut has passed a separate bill and we note that fiduciary proposed legislation is pending in New York and New Jersey.

Retirement investor plan sponsors, individual investors and service providers will be subject to significant confusion, disruption and harm if the DOL, SEC, FINRA, state insurance and state securities regulators all adopt separate, uncoordinated standards. Ultimately, this will undermine the DOL's goals with fiduciary rule reforms.

Inconsistent uniform standards also results in needless confusion to retirement investors regarding different standards of conduct applied to the same investment offerings held in different accounts. Service providers, like recordkeepers, would also be required to develop and maintain separate compliance procedures for the different investment vehicles, account types and distribution conduct potentially requiring extensive information technology spends, development of multiple processes and procedures, training and oversight policies.

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These concerns and others would be eliminated with a new, consistent rulemaking effort. The review mandated by the President's Memo offers the opportunity for a fresh start, building off of the lessons learned and input received by the regulated community, to develop a single standard that meets the needs and protects all individual investor, regardless of whether they are investing for their retirement or for other goals.

A common standard should be drafted with industry input to avoid unnecessary disruptions.

A coordinated review may require additional time to complete, but in our view, this is time well spent. On this critical issue, we cannot afford to act without careful consideration and coordination in arriving at a uniform standard of conduct.

Modifications to the 2016 Fiduciary Rule

While, as noted above, we believe that a fundamental reexamination of the Rule would best serve all investors, there are specific modifications to the Rule we would suggest.

1. **Basic Definition of Advice.** – The core of the definition is the concept of making a "recommendation". At 2510.3-21(b)(1) of the Rule, the term "recommendation" is further defined as: "A communication that, based on its content, context, and presentation, would reasonably be viewed as a suggestion that the advice recipient engage in or refrain from taking a particular course of action."⁴ Under this definition, casual suggestions regarding investments or distributions that are clearly not intended to be relied upon as advice could be deemed a fiduciary act. We believe the Rule should be clarified by specifying that a recommendation must be a call to action to take or refrain from taking a specific course of action, a much higher and clearer standard beyond a mere suggestion.

2. **Need for Mutual Agreement between Adviser and Advisee** – Any Rule should make clear that discussions or communications around investments or distributions should not be deemed a fiduciary act unless there is a mutual agreement or understanding that the advice is individualized and that there will be material reliance on that advice. The agreement should also be able to define the scope of the fiduciary advice and whether there is an ongoing duty to provide advice or whether the advice was offered with respect to a single or a limited series of transactions. This would help prevent casual or informal conversations that are not intended to be relied upon as advice giving rise to a fiduciary duty.

⁴ 81 Fed. Reg. 20,997 (April 8, 2016)

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Bipartisan legislation was introduced in the 114th Congress that provides a blueprint on how the Rule could be revised to reestablish a mutual agreement while protecting retirement investors from “hidden disclaimers”. H.R. 4293 – the Strengthening Access to Valuable Education and Retirement Support Act and H.R. 4294 – the Affordable Retirement Advice Act were introduced in 2016. Similar legislation has been introduced in the current Congress. The legislation provided guidance on how a disclaimer of a mutual agreement must be provided.

The legislation proposed that advice must be rendered pursuant to: “A written acknowledgment of the obligation of the advisor to comply with section 404 (of ERISA) with respect to the provision of such recommendation; or a mutual agreement, arrangement, or understanding, which may include limitations on scope, timing, and responsibility to provide ongoing monitoring or advice services, between the person making such recommendation and the plan that such recommendation is individualized to the plan and such plan intends to materially rely on such recommendation in making investment or management decisions with respect to any moneys or other property of such plan.” The legislation also makes it clear that this disclaimer would apply to plans, plan participants, beneficiaries and IRA holders.

The disclaimer must state: “This information is not individualized to you, and there is no intent for you to materially rely on this information in making investment or management decisions.” The disclaimer must be in writing and communicated in a clear and prominent manner such that an objective person would reasonably conclude that based on facts and circumstance there was no mutual agreement or understanding.

The Rule should include language similar to the congressional proposal. This would allow greater access to educational services while providing protections against hidden “boilerplate” disclaimers.

3. Expansion of the “Seller’s” Exception – Under the Rule, an exception from the definition of advice is provided for fiduciaries that hold or have under management or control total assets of at least \$50 million. Individual investors and plan fiduciaries with less than \$50 million are not included in this carve out.

The Rule should be revised to allow financial professionals who make it clear that they are selling or marketing their services and products and not attempting to provide impartial advice are not subject to fiduciary standards. The exception to the definition of advice should be made available when communicating with any retirement investor.

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This seller's exception would be similar to the one outlined in Definition of the Term Fiduciary first proposed by DOL in 2010.⁵ The original proposed rule provided that a person would not be considered as providing fiduciary advice if it can be demonstrated that: "(t)he recipient of the advice knows or, under the circumstances, reasonably should know, that the person is providing the advice or making the recommendation in its capacity as a purchaser or seller of a security or other property, or as an agent of, or appraiser for, such a purchaser or seller, whose interests are adverse to the interests of the plan or its participants or beneficiaries, and that the person is not undertaking to provide impartial investment advice."⁶

We would take exception with the phrase "*whose interests are adverse to the interests of the plan or its participants or beneficiaries*" in the language cited above. We believe that the term "adverse" cannot properly be used to describe the plan and service provider relationship. Financial service providers are not engaged in caveat emptor transactions with their clients—state and/or Federal laws governing the conduct of financial service providers prohibit them from considering only their own interests. These providers must take into account the needs of their clients, consistent with their legal obligations under the prevailing duty of care, such as the securities law standard of suitability or fiduciary obligation. As a result of these legal duties, a service provider cannot properly be considered "adverse" to his or her client. We would recommend replacing the language with: "*who has a financial interest in the purchase or sale of the security or other property.*"

Again, the bipartisan legislation discussed above could provide guidance on how it may be reasonably determined that the recipient should have known the person providing the recommendation was doing so in a sales or marketing capacity. The same process and standards could be required – a full and fair disclosure in writing that the person providing the information is doing so in its marketing or sales capacity and that the person is not intending to provide impartial investment advice. As with the disclaimer of a mutual agreement, this notice would require communication in a clear and prominent manner such that an objective person would reasonably conclude that based on facts and circumstance there was no mutual agreement or understanding.

⁵ 75 Fed. Reg.65,263 (October 22, 2010)

⁶ Ibid at 65,277

Changes to the Best Interest Contract Exemption

The changes to the core definition recommended above will substantially reduce the need to rely on the Best Interest Contract Exemption (BIC). However, even if those changes are made, we support the DOL's effort to create a flexible prohibited transaction exemption that can be used to address compensation issues arising in connection with a variety of types of transactions and investment products. That being said, significant changes to the BIC are necessary to appropriately balance the goals of providing adequate and meaningful protections to investors while avoiding unreasonable or unnecessary costs and litigation risks.

1. **Eliminate the Contract Requirement** – The BIC currently requires execution of a contract with IRA customers or any other customer covered by the rule that is not protected under Title I of ERISA. The effect of this provision is to support and encourage private litigation as an enforcement mechanism. It has been estimated that the fiduciary rule will increase ERISA fee litigation settlements by \$75 to \$150 million annually.⁷ A recent study⁸ suggests that there are significant negative impacts of increased ERISA litigation settlements on fiduciary decision making. Another concern is that giving state courts the power to interpret ERISA fiduciary standards of care is inconsistent with ERISA §502(e) (1) and Congressional intent to create uniform Federal enforcement of the ERISA statute. In short, creating a contract requirement is bad public policy and we recommend that this requirement be eliminated.
2. **Eliminate the Warranty Requirements** – The BIC contains multiple warranty requirements, all of which are either redundant to other protections currently available to retirement investors, unclear in their meaning and application, or unnecessarily burdensome.

Retirement investors covered by Title I of ERISA already receive the benefit of ERISA fiduciary standards of care and mechanisms to enforce those standards. They also receive disclosure of fees and services or investment performance⁹ so they can readily assess whether they are receiving appropriate value for what they are paying.

Retirement investors not covered by Title I of ERISA currently receive protection under state and federal securities and insurance laws, including a right to arbitrate and/or litigate disputes and mandated disclosures related to fees and services so the warranty requirement is also redundant for this category of investors.

⁷ Morningstar Report, "Weighing the Strategic Tradeoffs of the U.S. Department of Labor's Fiduciary Rule," Financial Services Observer, February 2017

⁸ Cerulli Associates, The Cerulli Report – U.S. Retirement Markets 2016: Preparing for a New World Post-Conflict of Interest Rule

⁹ ERISA §404(a)(5); 29 C.F.R. §2550.404a-5; ERISA §408(b)(2); 29 C.F.R. §2550.408b-2

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One of the most problematic aspects of the warranty requirement is the statement requirement regarding internal compensation practices. The BIC requires a warranty that there will be no performance or personnel actions (including appraisals, bonuses, or other incentives) that would reasonably be expected to cause an employee to make a recommendation that is not in the best interest of a retirement investor. This language, which is vague in its application and which ignores the existence of other investor protections, is an unreasonable intrusion on the ability of businesses to align employee behavior with business objectives. We believe that ERISA's existing best interest standard of care adequately aligns the interest of fiduciary advisors with advice recipients without infringing on the ability of organizations to establish compensation practices that both reward employees for meeting business objectives and are consistent with a best interest standard of care.

3. **Revise Conflict of Interest Policy Requirements** – The warranty and disclosure requirements of the BIC mandate the development of written policies and procedures to ensure compliance with the impartial conduct standards. Included in these provisions is a requirement to identify and document material conflicts of interest and provide detailed disclosures around both policies designed to prevent conflicts and compensation arrangements. Also included is a requirement to identify the person responsible for addressing potential conflicts of interest and monitoring compliance with the impartial conduct standards.

We agree with the DOL that service providers have a responsibility to be aware of potential conflicts of interest in how they get paid and take reasonable steps to avoid having those conflicts negatively impact how customers are served. We do not think the current rule, which requires a level of detail that will inevitably lead to the need for constant updates and revisions, is the right approach. While we do not support including this as a warranty, we do support maintaining it as a standard of care and eliminating the prescriptive requirements of Sections II (2) (2) and (e) (2).

To the extent the DOL believes it necessary to provide additional guidance regarding the types of practices that would demonstrate compliance with impartial conduct standards, we encourage it to look at the FINRA model. FINRA has developed extensive rules designed to protect investors and monitor advisor activity and most financial institutions have already incorporated these practices in their businesses.

4. Eliminate the “Reasonable Compensation” Requirement from the Impartial Conduct Standards – Under ERISA §408(b)(2) it is the responsibility of the hiring fiduciary to determine whether the compensation they are paying is reasonable in light of the services or other value they are receiving. Similarly, outside of the ERISA context, it is the buyer who must determine whether the price offered for a product or service is fair and competitive. Retirement savers and plan fiduciaries make significant financial decisions (such as buying a house or car or selecting a bank to work with) and understand that it is their responsibility to compare prices charged and value received. Section II(c)(2) of the rule is in conflict with both the allocation of fiduciary responsibility under ERISA and general commercial principles.

The standard is also vague, leaving companies in the position of having to choose between competing against themselves or subjecting themselves to unnecessary risk. Marketplace forces operate as a control on fees in the retirement saving industry as well as in any other industry and it is the individual consumer who is best positioned to determine whether the price is reasonable to them.

Alternative Exemptive Approaches

We recommend that a single BIC exemption be created that is flexible enough to accommodate both existing marketplace realities as well as future product innovations. We would additionally advocate that a future version of the BIC cover a broader scope of advisory engagements, including advisory engagements currently excluded from the BIC's scope, such as robo-advice and discretionary advice engagements. Having a disclosure based exemption for conflicts of interest would align ERISA exemptions with prevalent practices in other areas of law, such as the federal securities laws.

The components of the BIC should include:

1. Acknowledgment of fiduciary status
2. A requirement to act in the best interest of the customer and to avoid misleading statements
3. A requirement to have policies and procedures designed to mitigate conflicts of interest
4. Model disclosures that are clear and concise and that align with SEC required disclosures as well as disclosures already required under ERISA.

The BIC should not include:

1. Contract or warranty requirements that trigger litigation without adding consumer protections
2. Prescriptive conditions regarding conflict of interest policies and procedures

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3. Shifting of the burden to sellers for determining the reasonableness of their compensation
4. Complex, expensive, duplicative, and unhelpful disclosures

We believe these changes would result in a more workable rule, but reiterate that the best result of the review process would be a new rule making process that is centered on collaboration between the DOL and the SEC.

Clean Shares and Fee-Based Annuities

The DOL asked for specific feedback on two product-types that gained popularity over the last few years as the DOL proposed and finalized the Rule - - mutual fund clean shares and fee-based annuities. Great-West is proud to offer both products but we believe clean shares and fee-based annuities are compelling investment vehicles for some but not all.

The DOL has publicly admitted the Rule's transformative role in the retirement plan space. The Rule and related PTEs all signal cues to product manufacturers, advisers, plan sponsors, participants and IRA accountholders about what the DOL deems 'proper'. We are concerned any product-specific PTEs implicitly favor those products discussed in those PTEs over products without PTEs.

The DOL should not be in the business of endorsing one product over another, explicitly or implicitly, especially when the 'favored' investment structures may lead to market disruption and unintended consequences,

Clean Shares¹⁰

Based on the reasons noted below, we believe clean shares have a place in the market along with other mutual fund share classes but it is misguided to believe clean shares will resolve all problems the DOL seeks to remedy. We have two fundamental concerns: First, we believe clean shares may lead the retirement investor into a false understanding that he or she is paying 'less' for an investment and second, the implicit endorsement of clean shares will inappropriately disrupt existing pricing relationships between plan sponsors and retirement plan service providers.

¹⁰ Great-West Funds introduced Institutional share classes to over sixty mutual funds in its complex on May 1, 2015. The share classes only charge an investment management fees and have no 12b-1 or shareholder service fee. It took Great-West Funds approximately eleven months from concept through prospectus effective date before offering the first shares. The approximate cost of this process includes expenses for seeding the mutual funds, ongoing operational and legal costs, licensing, share registration and other costs like proxy materials.

Clean Shares Will Not Necessarily Change the End Cost to the Retirement Investor So the DOL Should Evaluate the Clean Shares Market before Acting

As indicated in this letter, Great-West is a firm believer in providing clear and concise disclosures to all investors for any prospective financial transaction. To that end, clean shares offer retirement investors the ability to analyze those fees associated with the mutual fund (investment management fees and fund operating and administration expenses) and those directly associated with the broker or other intermediary. We believe this fee separation potentially helps retirement investors better evaluate a prospective transaction.

However, we disagree that the retirement investor is necessarily economically enriched through fee transparency. Said another way, these transparency gains do not automatically equate to investment gains.

In the preamble to the Fiduciary Rule, the DOL indicated:

The underperformance associated with conflicts of interest-in the mutual funds segment alone-could cost IRA investors between \$95 billion and \$189 billion over the next 10 years and between \$202 billion and \$404 billion over the next year 20 years.¹¹

The DOL implies that elimination of loads and other revenue share fees attributable to the mutual fund ("Mutual Fund Revenue") automatically inflates the final return to the retirement investor. However, we believe it's likely those fees will merely be shifted elsewhere in the transaction. Mutual Fund Revenue exists to cover specific costs associated with the marketing, distribution and ongoing administration of the funds.

Those costs exist regardless of share class. For instance, a broker who sells a particular mutual fund or a recordkeeper which includes a mutual fund in its platform incurs similar expenses servicing shareholder accounts, whether it is an A share, B share or clean share. Therefore the costs will need to be recouped through other pricing arrangements. The retirement investor will end up paying a comparable price for the mutual fund sale, whether it's a separate fee charged by mutual fund fees or a separate fee charged by the entity selling the fund.

Before the DOL consider prohibited transaction exemptions around clean shares, it should thoroughly evaluate the clean share market.

¹¹ 81 Fed. Reg. 20,950 (April 8, 2016)

Implicit Clean Share Endorsement Can have Unintended Consequences

In the small and mid-market retirement plan space, Mutual Fund Revenue often serves a critical role to help offset recordkeeping and adviser fees. This strategy allows the plan to pay recordkeeper and adviser fees without explicitly charging participants. Excess Mutual Fund Revenue may be paid back to participant accounts or to a plan account. This strategy is currently in place for many existing plan sponsors.

Implicitly endorsing clean shares through PTEs may cause fiduciary advisers to move plan sponsors into the one 'endorsed share class.' This, in turn, will dramatically increase recordkeeping costs due to a tidal wave of fund platform changes and alter flexible recordkeeping pricing strategies that are often beneficial to plan sponsors and participants.

Conflicted compensation is certainly a disclosure element retirement investors must consider when evaluating a sales pitch or investment recommendation. But it is not the only consideration. Most importantly, we believe retirement investors must evaluate the features of investment products against the 'all-in' cost to purchase to the investment.

Fee-Based Annuities¹²

Great-West has been providing highly successful fee-based annuity products since 1995. Great-West recently launched a fee-based annuity called "Smart Track Adviser" which *Barron's* recently rated as the best annuity for asset accumulation.¹³ We are proud of this designation as it provides annuity retirement investors with tremendous investment options at a low fee. It is important to note that we believe our fee-based annuity products complement our commission-based annuity products but they are not wholesale replacements. Like mutual fund clean shares, fee-based annuities offer annuity retirement investors a transparent way to separately evaluate those costs associated with the product and those with the distribution. However, similar to clean shares, these products are not a panacea.

We believe annuity retirement investors want a wide array of options and many annuity investors will look at the 'all-in' cost associated with the transaction.

¹² Smart Track Adviser took at least a year to develop, including prospectus registration with the Securities and Exchange Commission and state insurance filings.

¹³ Barron's Cover, "The 50 Best Annuities: Guaranteed Income for Life", June 24, 2017

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Traditional annuity commission structures will typically have an initial commission charge and then a trailing commission with a contingent deferred sales charge. This compensation represents efforts to sell and/or distribute the annuity product. For the purposes of this discussion, it's important to focus on that point. Commission compensation is typically paying 'point-in-time' transaction compensation whereas an adviser will charge ongoing fees based on all advised assets. Annuities tend to be 'buy-and-hold' investment vehicles. For instance, retirement investors will potentially purchase these products as tax deferred vehicles and later annuitize the investment for lifetime income.

Variable annuities with guaranteed withdrawal benefits are a specific example. These products allow retirement investors, through an annuity contract, to stay invested in an investment to and through retirement. Only when the annuity account value is depleted, does the GLWB establish the characteristics of a traditional payout annuity. During this period of time, a fee-based variable annuity retirement investor will potentially be charged a fee from his or her adviser in lieu of a commission.

For illustration purposes, retirement investors may purchase a variable annuity with a guaranteed withdrawal benefit feature at or near retirement. Should that retirement investor live to 65, their life expectancy tends to increase, with both males and females often reaching their mid-80s.¹⁴ This means advisory fees could be applied to product assets over many years. It is possible that total fees associated with the product in a fee-based annuity exceed those of a commission product and drive the overall fee-based annuity product returns below commission-based annuity returns.

We believe the most important result is allowing the retirement investor to choose from an array of available annuity alternatives, not directed to one particular structure due to favorable DOL prohibited transaction exemptions.

Innovative Products and Prohibited Transaction Exemptions

As noted above, Great-West is a strong advocate of common sense improvements to the BIC Exemption. But the DOL must eliminate the bifurcated prohibited transaction exemption process which arbitrarily stigmatizes variable and indexed-annuities.

¹⁴ National Center for Health Statistics. Health, United States, 2016: With Chartbook on Long-term Trends in Health. Hyattsville, MD. 2017

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Great-West's aim is to partner with advisers to deliver the most cost effective and beneficial retirement solutions to retirement investors. This cannot be achieved when certain products are treated under separate, and disparate prohibited transaction exemptions. We note, in particular, that this bifurcated prohibited transaction exemption regime has negatively impacted indexed annuities. Indexed annuities have recently become very popular investment vehicles.¹⁵ This is due to competitive guarantee return possibilities that have outpaced traditional fixed annuities in this low interest rate environment but with protection against market risk. However, between the time of the 2015 proposed fiduciary rule and today, indexed annuities have been treated as a 'political football' through the final prohibited transaction exemption process.

For instance, the DOL disadvantaged these products by not classifying Individual Marketing Organizations as Financial Institutions under the BIC. We acknowledge that indexed annuities can be complex but the answer is not to stigmatize these products or treat them differently than other investment products. All investment products should be treated equally so the retirement investor can properly evaluate the product and compensation. Along with the common sense and reasonable changes to the BIC discussed in this letter, the DOL should include all investment products under one flexible prohibited transaction exemption which will cover all current investments and have flexibility to account for future innovative designs. This will allow product manufacturers and advisers to clearly understand the ground rules, homogenize and simplify disclosures and allow retirement investors to analyze all recommended products from the same perspective.

Sincerely,



Robert K. Shaw
President, Individual Markets

¹⁵ LIMRA Secure Retirement Institute-“Individual Annuity Yearbook – 2015” “Sales by Product Type” (Page 14)