

August 28, 2020

Office of Regulations and Interpretations  
Employee Benefits Security Administration  
Room N-5655  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, DC 20210

**Re: Hearing on Improving Investment Advice for Workers & Retirees (ZRIN 1210-ZA29)**

Dear Sir or Madam:

CFA Institute is pleased that the U.S. Department of Labor (the “Department”) has decided to convene a public hearing on its proposed exemption, “Improving Investment Advice for Workers and Retirees,” (the “Proposal”), and we appreciate your consideration of our request to testify. Pursuant to the Department’s Notice of Public Hearing, therefore, CFA Institute respectfully submits this written request to testify at the public hearing scheduled to begin 3 September 2020.

A key reason for seeking inclusion in the hearing is the unique membership perspective and industry vantage point that we will contribute to the hearing. We are the world’s largest association of investment professionals<sup>1</sup> whose more than 80,000 U.S. members function variously as chief investment officers, investment advisers, and portfolio managers on the buy side of the market; as brokers, investment bankers, and financial analysts on the sell side; and as consultants, chief financial officers, regulators, and academics elsewhere in the financial world. This diverse membership is bound by a common commitment to the CFA Institute Code of Ethics and Standards of Professional Conduct (“Code and Standards”)<sup>2</sup> which require all members and candidates to “place their clients’ interests before their employer’s or their own interests.”

If selected, James Allen, Head of Capital Markets Policy for the Americas, will speak on behalf of CFA Institute. Mr. Allen’s oral testimony will expand on the two previously submitted comment letters (see Appendix A and B).<sup>3</sup> CFA Institute will supplement its testimony with additional written comments and material factual issues as necessary.

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<sup>1</sup> CFA Institute is a global, not-for-profit professional association of nearly 171,400 investment analysts, advisers, portfolio managers, and other investment professionals in 165 countries, of whom more than 164,000 hold the Chartered Financial Analyst® (CFA®) designation. The CFA Institute membership also includes 154 member societies in 77 countries and territories.

<sup>2</sup> CFA Institute Code of Ethics and Standards of Professional Conduct: <https://www.cfainstitute.org/en/ethics-standards/ethics/code-of-ethics-standards-of-conduct-guidance>

<sup>3</sup> CFA Institute has submitted two comment letters on the Proposal. The July 22, 2020 letter, requesting an extension of the comment period and the scheduling of a public hearing, is attached under Appendix A. The follow-up comment letter dated August 6, 2020, detailing our views on the Proposal and final regulation implementing the vacatur of the Department’s 2016 “Fiduciary Rule,” is attached under Appendix B.

CFA Institute expects the hearing testimony to reflect its views, concerns, and suggestions regarding the following:

- I. The U.S. retirement investment landscape and the need to improve investment advice protections and enhance financial choices for retirement investors. (*2 minutes*)
  - a. Final regulation implementing the vacatur of the Department’s 2016 Fiduciary Rule;
  - b. Market trends (e.g. zero commissions, defined-contribution plans);
  - c. “Trust equation” in the investment industry.
- II. The Proposed Exemption and alignment with SEC’s Regulation Best Interest. (*5 minutes*)
  - a. Proposed exemption, protective conditions (“Impartial Conduct Standards,” disclosure, policies and procedures on conflicts of interest, compliance review);
  - b. CFA Institute position regarding Regulation Best Interest and Form Customer Relationship Summary;
  - c. “Best Interest” standard under Reg BI v. ERISA fiduciary standard;
  - d. Flexibility for financial institutions, investment professionals v. investment options, protections for retirement investors.
- III. The combined effects of the Proposed Exemption and the Five-Part Test. (*3 minutes*)
- IV. Uniform fiduciary protection for Plan rollovers, private right of action for IRA investors. (*3 minutes*)
  - a. The Deseret Letter;
  - b. The Five-Part Test requirement;
  - c. Rollovers directed into annuity products;
  - d. Private right of action for IRA investors.
- V. Conclusion. (*1 minute*)

In conclusion, CFA Institute appreciates the Department’s decision to convene a public hearing on the Proposal and its consideration of our request to testify. We hope the Department includes the perspectives of CFA Institute and its members as part of the hearing record. If you have any questions, please do not hesitate to contact James C. Allen, CFA, at [james.allen@cfainstitute.org](mailto:james.allen@cfainstitute.org) or 434.227.1338, or Karina Karakulova, at [karina.karakulova@cfainstitute.org](mailto:karina.karakulova@cfainstitute.org).

Sincerely,

/s/ James C. Allen

James C. Allen, CFA  
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/s/ Karina Karakulova

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