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Office of Regulations and Interpretations
Employee Benefits Security Administration
Attn: Conflict of Interest Rule, Room N-5655
U.S. Department of Labor
200 Constitution Avenue N.W.
Washington, DC 20210

To Whom It May Concern:

On April 20, 2015, the Department of Labor (DOL) published its notice of proposed rulemaking regarding the definition of the term “fiduciary” of an employee benefit plan and related proposed prohibited transaction exemptions (collectively, the “Proposal”). The Proposal would revise the definition of “fiduciary” for purposes of a plan subject to the Employee Retirement Income Security Act of 1974 (ERISA) as a result of giving investment advice to the plan or its participants or beneficiaries. The Proposed Regulation would also apply to the definition of a “fiduciary” of a plan or Individual Retirement Account (IRA) under section 4975 of the Internal Revenue Code of 1986 (the “Code”).

Farmers Supports a “Best Interest Standard,” but Concerned with Unintended Consequences

Farmers agrees with the DOL that planning for retirement is important and that all levels of investors should receive ethical, professional guidance. Farmers supports a universal “best interest standard” that would require financial professionals to act in the best interest of their customers, while also preserving the fundamentals of the personalized advice model. Although well intentioned, the proposed DOL rule puts a valuable advice model serving middle class aspirants at risk.

Customers’ Best Interest Aligned with Farmers’ Best Interest

At Farmers, Customer Experience is our top priority. The property casualty insurance market is highly competitive and we constantly seek to add value with products and services to deepen the customer-agent relationship. Because Farmers Financial Solutions (FFS) customers are almost always Farmers Insurance customers, it is economically possible for Farmers agents to serve customers with smaller initial investments and account balances even while receiving little to no compensation. FFS commissions are often far outweighed by insurance commissions, but the product offerings help agents to enhance the customer experience, thus deepening the relationship. FFS offers a wide variety of fund families from different producers, so our agents are not beholden to a small menu of investment products. By serving our customers with these diverse investment options we are better able to provide objective advice and meet our customers’ needs as compared to other financial advisors.

Farmers Customers Rely on Personalized Investment Advice from Farmers Agents

Farmers Financial Solutions customers are primarily working class and middle income investors. A fair representation of the average FFS customer is the 31-year old single female who starts an IRA Mutual Fund with a \$200 initial investment. Or the 41-year old male who opens an IRA in 2002 with no money up front, contributing \$50 per month (with about \$1 per monthly investment being earned by the Farmers' agent in commission) until he can increase that to \$100 per month in 2012. Or the five restaurant workers who meet with a Farmers' agent that drove three hours in inclement weather to explain the plan, investment options and encouraged them to participate. These employees average investment was only \$25 per paycheck into to the 401(k) that the employer established, and which resulted in the agent earning \$10 in commission for the year.

Current DOL Proposal Will Not Work, Will Reduce Consumer Access to Personalized Advice

In the current DOL proposal, the prohibited transaction rules generally prohibit fiduciaries from providing advice if the advice could affect the compensation of the fiduciary, even if the advice is in the best interest of their customer. Commission-based differential compensation is currently allowed under existing financial regulations and has proven to be the model that best serves small accounts and small businesses. Without a workable prohibited transaction exemption that will allow for this compensation model to continue, fundamental aspects of the relationship between retirement clients and financial professionals like Farmers agents will become prohibited.

DOL has the power to provide exemptions from the prohibited transaction rules, and has provided proposed exemptions in their proposal. However, the Best Interest Contract Exemption (BICE) sets terms that brokers will find nearly impossible to meet to maintain the structure by which they are currently compensated. The BICE compensation and fee disclosures, as well as the quarterly and annual performance projections, are particularly problematic. Even if the BICE terms are met, our agents will face a heightened risk of crippling frivolous litigation. Agents will be forced to undertake this risk or forfeit commissions and choose to no longer offer investment advice to customers.

If the rule is unchanged, many broker-dealers, including many Farmers agents, will change their business model and quit serving entry level customers. This would have the opposite effect of DOL's stated goals of increasing Americans' retirement security.

Farmers Wants to Help DOL Get the "Best Interest Standard" Right

Farmers is committed to working constructively with DOL to improve the current proposal and achieve investor protection. Farmers would support a final rule with some important modifications that would clarify the DOL's suggested definition of fiduciary.

- **Clarify Distinction between Education and Advice** - The final rule should clarify that general investment education and distribution advice does not give rise to a fiduciary status.

Only when advice leads to a financial transaction should fiduciary status be assigned to the adviser.

- **Amend the Best Interest Contract Exemption (BICE) to Allow Workable Advisory Model** – The following changes need to be made to make the adviser model work for Farmers Agents:
 - **Clarify how BICE applies to existing customers** – Duplicative or confusing disclosures could serve to undermine the trust existing customers have in their Farmers agent. A sensible transition process must be allowed, either by a grandfather clause or an addendum to existing disclosures.
 - **Fix the timing of the BICE contract** to be entered at the point of a financial transaction, and not during the education and advice phase.
 - **Allow for Unilateral Contract to the BICE**, either by the adviser or the broker-dealer.
 - **Harmonize with Financial Regulations** and existing securities law to ensure a coordinated uniform standard when and if the SEC and/or FINRA move forward. Harmonization would only be adequate if it addresses enforcement of the BICE, compensation and fee disclosures, as well as performance projections.
 - **Remove private right of action** to reduce the high risk of frivolous litigation.
- **Provide a Disclosure Based Exemption for Advisers that Act in Best Interest** - The rule should provide a clear disclosure-based exemption from prohibited transaction rules based on the principle that an adviser is required to act in the client's best interest. This exemption could also give weight to the product diversity offered by advisers and to the share of their overall compensation derived from retirement investments.

Thank you for considering Farmers' comments. If you have additional questions or would like to discuss this issue further at any time, please contact either me at (818) 584-0241, or Matt Gannon at (202) 585-3122.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "John Mueting". The signature is fluid and cursive, with a long, sweeping underline that extends to the left.

John Mueting
President of Farmers Financial Solutions