



July 20th, 2015

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

Re: Definition of the Term “Fiduciary”; Conflict of Interest Rule—Retirement Investment Advice (RIN 1210-AB32)

Ladies and Gentlemen:

Thank you for the opportunity to provide comments regarding the Department of Labor’s (“Department”) Proposed Conflict of Interest Rule (“Proposed Rule”) and Best Interest Contract Exemption (“BIC Exemption”) under the Employee Retirement Income Security Act of 1974, as amended (“ERISA”). I am concerned that the Proposed Rule and BIC Exemption will unnecessarily increase barriers for Middle-Income Americans to the valuable retirement savings education and assistance that I and many thousands of other registered representatives provide. It is my hope that my comments are helpful to the Department.

I have been a registered representative with PFS Investments Inc. since 1983. My office is in Fort Washington, Pennsylvania. My clients come from the community in which I live and work. They are hard-working, very busy people, and, quite typically, before they meet me, no one has ever taken the time to sit down with them to assess their financial picture and discuss basic financial concepts with them, such as the power of saving for retirement through systematic investing and what investment options are available to them. They, like so many people in Middle America, do what they do daily very well, but the reality of life is that there is no time left in the day after their work day and evening family commitments end for them to proactively seek out education and advice on saving and investing. What some view as basic saving and investing concepts that everyone already knows, is typically not information they know. They are starting from a different baseline, and it takes a substantial time commitment to understand these concepts well enough to make actual investment decisions independently.

While it may appear that they *have access* to this information if they have computers or other mobile devices from which they can search the internet, they do not, in my experience, *access* this information on their own. It is time-consuming and overwhelming. They are much more comfortable working with a live person, and more successful when they do so, both of which

studies have demonstrated.<sup>1</sup> And with retirement savings and retirement plan participation at such low levels, it is imperative that we help Middle-Income Americans in every way possible get on track toward ensuring better futures for themselves and their families.

Working with Middle-Income Americans to achieve their financial goals is what I have done my entire career in the financial services industry. A story about a particular client of mine comes to mind.

About 15 years ago I sat down with a married couple in their home because the wife asked me to review their financial situation. The husband earned very good money working as a railroad engineer, the wife worked in the home, and they had one daughter. Despite earning a good income on the railroad the family had a sizeable amount of consumer debt and no savings. One reason was due to the wife spending a lot of money buying gifts for others. After introducing them to basic financial concepts I was able to help them establish a financial game plan to get rid of their debt and start saving for retirement. For example, I informed the wife she could express generosity to her friends and family by writing personal letters or providing baking goods instead of spending money she did not have on expensive consumer items. They chose to follow my guidance by paying down their debts, opening an emergency account, and an IRA in which they invested \$50 per month. The financial knowledge I gave them empowered them to learn more on their own which led to more questions. Since I do not charge by the hour like fee-based advisers do it freed them to ask as many questions as they would like. We had several conversations about the fees involved in their investment transactions. After a five to seven year process they had erased all their debt and increased their retirement savings along the way. One day the wife left a message on my answering machine thanking me for turning her whole life around. She had no debt, and she had emergency savings and retirement savings.

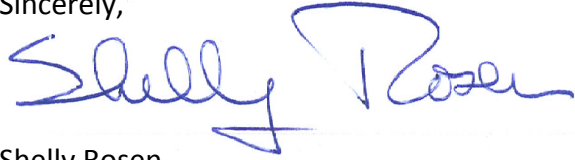
It is my belief that the Proposed Rule and the BIC Exemption as drafted will eliminate or substantially reduce people like this couple's access to education and advice, at the exact time and for the exact purpose they need it most – saving for retirement. I fear that the translation of education into advice, the imposition of the new BIC contract, the uncertainties created by the Impartial Conduct Standards which substantially increase liability costs and effectively disqualify the commission model, and the costs of complying with all of the many disclosure requirements will cause firms such as PFS Investments Inc. to conclude that it simply is not feasible to open smaller accounts. If a decision like this is made, my clients will lose access to the education and advice they so badly need, and their futures will be severely negatively impacted as a result.

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<sup>1</sup> Oliver Wyman: The role of financial advisors in the US retirement market (July 6, 2015). Oliver Wyman states that it “. . . was engaged to perform a rigorous investigation of the role of financial advisors in the US retirement market, and quantify differences in investing behavior and outcomes between advised and non-advised individuals.”

It is my hope that the Department will take this into consideration and withdraw the Proposed Rule. Thank you again for the opportunity to comment.

Sincerely,

A handwritten signature in blue ink that reads "Shelly Rosen". The signature is written in a cursive style with a large, looped "S" and "R".

Shelly Rosen  
Fort Washington, Pennsylvania