

May 5, 2010

Office of Regulations and Interpretations
Employee Benefits Security Administration
Room N-5665
U.S. Department of Labor
200 Constitution Ave., NW
Washington, DC 20210

Delivered Electronically
to e-ORI@DOL.gov

Re: Proposed Regulations Regarding a Prohibited Transaction Exemption for the Provision of Investment Advice.

Dear Sir or Madam:

TD AMERITRADE, Inc.¹ (“TD AMERITRADE” or “we”) appreciates the opportunity to provide comments on Proposed Sections 2550.408g-1 and 2 (Proposed Regulations) that provide the eligibility requirements for a prohibited transaction exemption for fiduciary investment advisors (PTE).

TD AMERITRADE supports America’s independent investors, including participants in qualified retirement plans and IRA owners and their beneficiaries (Retirement Investors). Currently we service approximately 1.9 million Retirement Investor accounts holding approximately \$100 billion of assets. We recognize that many Retirement Investors want to take control of their retirement assets and that economic conditions require Retirement Investors to take on more responsibility with respect to their retirement saving and planning. We also recognize that many of these investors are ill-prepared to accept that responsibility without the assistance of knowledgeable, experienced, professional investment advisors. Therefore, TD AMERITRADE fully supports the Department of Labor’s efforts to increase the availability of objective investment advice to Retirement Investors.

TD AMERITRADE supports the following goals which the Proposed Regulations are intended to achieve:

- Retirement Investors will more clearly understand the status and nature of the fiduciary investment advisor (as defined in the Proposed Regulations) they select;
- Retirement Investors will receive the information and disclosures they need to make an informed decision when retaining a fiduciary investment advisor;

¹ TD AMERITRADE is a wholly-owned broker-dealer subsidiary of TD AMERITRADE Holding Corporation (“TD AMERITRADE Holding”). TD AMERITRADE Holding has a 35 year history of providing financial services to self-directed investors. Through its Institutional division, TD AMERITRADE provides custody services to over 4,000 independent registered investment advisors.

- Fiduciary investment advisors will have clear guidance as to their duties and responsibilities in advising and reporting to Retirement Investors;
- Disclosures between Retirement Investors and fiduciary investment advisors will be more uniform and easier for the typical Retirement Investor to understand; and
- Retirement Investors who have been employed by all types of employers will be eligible to avail themselves of objective, professional investment advice.

TD AMERITRADE also believes that advice provided by fee-based independent Registered Investment Advisors (RIAs) most closely conforms to the spirit of the Proposed Regulations. Pursuant to the Investment Advisers Act of 1940, RIAs have a duty to act in the best interests of their clients at all times. In general, Retirement Investors have a long investment horizon and the quality of investment advice received will have a significant impact on the end results for Retirement Investor accounts, large or small. TD AMERITRADE understands this dynamic and, through its Institutional division, currently provides custody services to over 4,000 independent RIAs who offer advice to Retirement Investors. An independent RIA typically is not tied to a specific group of funds or asset categories. Instead, the independent RIA is able to review the entire universe of potential investment options so that its investment advice may be tailored to meet the needs of the individual Retirement Investor. TD AMERITRADE believes that the fee leveling method of providing investment advice as described in the Proposed Regulation encourages and supports the independent RIA business model, which is aligned with the best interests of Retirement Investors.

TD AMERITRADE appreciates the steps the Department of Labor is taking to make professional investment advice that is non-biased and conflict free available to Retirement Investors. TD AMERITRADE therefore supports the Proposed Regulations pertaining to the provision of conflict-free, transparent financial advice to Retirement Investors. If you need additional information, please contact Gil Ott, Deputy General Counsel, TD AMERITRADE at (201) 369-8559.

Sincerely,

TD AMERITRADE, Inc.