

December 30, 2023

Submitted electronically to <https://www.regulations.gov>

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

Re: Retirement Security Rule: proposed amendment to Prohibited Transaction Exemption (PTE) 84-24 regarding the Fiduciary governance of "Independent Producers"

My name is Gary S. Mettler, Agent ("Independent Producer"). I've been in the annuity business, in various capacities, since 1983. My comments concern the efficacy of the proposed amendment to Prohibited Transaction Exemption (PTE) 84-24 regarding the Fiduciary governance of Independent Producers when conducting qualified plan rollovers (direct or indirect) to "Individual Retirement Arrangements" (IRAs) via 408(B) fixed annuity contracts.

I'm very concerned by the sweeping nature of the Department of Labor via the Employee Benefit Security Administration (DOLs/EBSAs) proposal's attempt to include "all fixed" annuity contracts not currently regulated by the U.S. Securities and Exchange Commission (SEC). I believe, it's the DOLs/EBSAs real intention to only include those fixed annuity contracts not regulated by the SEC AND containing post issue Owner/Investment Adviser savings/investment management burdens. Many fixed annuity contracts issued by life insurance companies today require ongoing post issue savings/investment management aka "equity" burden components.

However, "pure insurance" fixed annuity contracts, contain no post issue Owner/Investor Adviser savings/investment equity management burdens because; they contain no savings/investment equity components collectively aka; "Immediate Annuity" or "Deferred Immediate Annuity" aka "Deferred Income Annuity (DIA)" contracts (periodic payment, annuitized) at their issue dates. These particular contracts should not fall under and should not share in the DOLs/EBSAs Independent Producer Fiduciary Duty level of care concerns. The current State "Best Interest" level of care is sufficient for these particular annuity contracts.

Fixed immediate annuity contracts (periodic payment, annuitized), are fully guaranteed by the life insurance industry (carriers) at issue, all future payments perform as illustrated to the purchaser as to dollar amounts and payment dates. These annuity contracts have no post issue moving parts. They simply have no Owner post issue savings/investment management burdens because they don't contain a savings/investment management "equity" component. In this respect, they have all the attributes of classic "funding agreements." or defined benefit "pension" plans. These particular annuity contracts

(immediate annuities, periodic payment, annuitized) should be specifically exempted and if they are specifically exempted, the DOL/EBSA needs to be crystal clear regarding this matter.

If these contracts (immediate fixed annuities, periodic payment, annuitized) are not specifically exempt, it's my opinion, they, for the most part, will cease to be offered to qualified plan participants seeking IRA rollover lifetime income "insurance" solutions. Only a "pure insurance" annuity is a true "defined benefit" retirement plan substitute as it is the only annuity (a paragon) that matches all the operational mechanics and guarantees of a defined benefit arrangement aka a "pension". Defined Benefit pensions don't contain Owner savings/investment, management components either. It's the primary reason pensions and these particular annuity contracts are most beloved by many individuals who; are saddled today, with far too many savings/investment plan choices that in retirement, compel decades of active financial management burdens.

Currently, utilization/recommendations of pure insurance, immediate annuity fixed contracts (periodic payment, annuitized) remain primarily within the realm of Independent Producers. Many PTE 2020-20 regulated Investment Advisors (IAs) will not recommend/present this particular, pure insurance, defined benefit designed, annuity contract to IRA consumers. PTE 2020-20 regulated IAs are primarily compensated via their "Assets Under Management" (AUM) business practices models with IA annual compensation percentages charged against AUM client account balances. Consequently, a full or even partial conversion, of qualified plan assets to an insurance contract such as an immediate annuity, is never presented to an IRA Owner.

When qualified plan assets via IRA rollovers are converted to fixed immediate annuity (periodic payment, annuitized) premiums, they can no longer be ethically counted as IA assets for IA compensation purposes because; the qualified plan assets, now converted to premiums used to purchase guaranteed future payments with, no current cash value equity to manage, from a life insurance company.

Regarding Independent Producers, primarily under (PTE) 84-24, insurance industry compensation incentives are heavily weighted to savings/investment management designed deferred annuity contracts (the assumed real target of your concern) and conversely, under weighted toward fixed immediate annuity (periodic payment, annuitized) contracts a pure insurance design. Because of this lower industry Independent Producer compensation and risk associated with the proposed Fiduciary level duty of care, immediate annuity contracts, for the most part, will no longer be presented to qualified plan participants seeking IRA rollover lifetime income insurance solutions. Industry tied compensation for immediate annuity contracts will not increase from their already very low compensation levels, for these particular annuity contracts vs savings/investment designed contracts.

If it's the DOLs /EBSAs intention to eliminate fixed immediate annuity contracts (periodic payment, annuitization), defined benefit design in the qualified plan to IRA rollover market, then, immediate annuity contracts will be solely confined to the non-qualified retirement income market governed by the States "Best Interest" models duty of care. Because, average individuals hold a preponderance of their

household wealth in qualified retirement plans, this will negatively impact average individuals' access to a pure insurance annuity (periodic payment, annuitization) lifetime income design contract.

If it's the DOLs/EBSAs intention to not eliminate fixed immediate annuity and deferred immediate annuity contract consumer choice then, the DOL/EBSA needs to be perfectly clear that fixed immediate annuity contracts (pure insurance, defined benefit, periodic payment, annuitized) designs are exempt.

Thank you for your attention to my comments.

Contact Information

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