ADISA™
ALTERNATIVE & DIRECT INVESTMENT SECURITIES ASSOCIATION
Education ▲ Networking ▲ Advocacy

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July 21, 2015

Via Electronic Mail
e-ORI@dol.gov and through www.regulations.gov

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

Re: Conflict of Interest Rule Hearing - In Response to Request to Testify related to our Comments to Proposed Fiduciary Rule: RIN 1210-AB32; 1210-ZA25

Dear Sir or Madam :

The Alternative and Direct Investment Securities Association ("ADISA" or the "Association", f/k/a "REISA") submits this request to testify in response to the U.S. Department of Labor's ("DOL") hearing on the proposed rulemaking in connection with the definition of the term "Fiduciary" and the and six proposed transaction exemptions published on April 20, 2015 (80 FR 21928, 21960, 22004, 22034, 22010, 22021, and 21989).

1. We desire that ADISA's Legislative and Regulatory Chair, Mr. John H. Grady (Chief Strategy and Risk Officer of RCS Capital Corporation), be allowed to serve as a witness in the DOL hearings August 10-12, 2015, on the issue of the Conflict of Interest Rule referenced above.
2. ADISA is the organization requesting to testify on behalf of the alternative investment industry, a subset of the financial services community handling non-traded alternative investments.
3. The office of ADISA's Executive Director at 10401 N. Meridian St., Indianapolis, IN 46290, shall serve as the contact point for our witness (telephone: 317-663-4172, email jharrison@adisa.org).
4. ADISA submitted its complete comments (dated July 21, 2015) on the Fiduciary issue in response to the DOL's Request for Comments on the proposed rule and prohibited transaction exemptions (RIN 1210-AB-32) by separate letter. Our comments are summarized concisely herein.

Our comment focus on the following issues: (i) the potential harm to small investors in the proposed rule, we present research results on cost increase; (ii) needed coordination between the Securities and Exchange Commission ("SEC") and the DOL as it regards the definition of fiduciary; and (iii) the likelihood of unintended harmful consequences affecting the investment strategies of millions by limiting access to the alternative investment industry as a whole with the adoption of the proposed rule.

These issues and a background of the Association are highlighted briefly below.

Background

ADISA (f/k/a/ REISA, the Real Estate Investment Securities Association) a national trade association with that influences over 30,000 real estate professionals who offer and manage alternative investments. These alternative investments include, but are not limited to non-traded REITs, real estate partnerships, real estate income and development funds, tenant-in-common interests, oil and gas interests, equipment leasing, business development companies, and other securitized real estate investments. The Association has more than 4,000 active members, who are key decision makers who represent investment professionals throughout the nation, including sponsors and managers of real estate and related offerings, broker-dealers, securities licensed registered representatives, registered investment advisers, investment adviser representatives, accountants, attorneys, mortgage brokers, institutional lenders, qualified intermediaries, real estate agents and real estate brokers. ADISA works to maintain the integrity and reputation of the industry by promoting the highest ethical standards to its members and provide education, legislative and regulatory advocacy, and networking opportunities. The Association connects members directly to key industry experts providing timely trends and education and helping create a diversified portfolio for their clients.

Summary

(i) ADISA respects the copious research indicating the advantage of financial advice, especially to those who are of limited means. The proposed rule would serve to limit the availability of advice, meaning a large share of America's retirement savings would be floating or sinking, strategically rudderless with the market currents.

(ii) ADISA recognizes that in the wake of the 2008 financial crisis, the creation of the Dodd-Frank Act sought to address many issues in the finance industry. In the Dodd-Frank Act, Congress charged the SEC with the task and responsibility to establish universal guidelines for the defining fiduciary roles and standards.[1] The Association believes that the SEC's is best suited to propose such standards and has been slow in doing so because of the many complexities involved. Input from financial professionals, the general public, and various investment communities help shape the SEC's view and position it to avoid duplicative or conflicting standards.

(iii) ADISA maintains that its membership--the financial professionals handling non-traded alternative investments--would be deterred from serving the smaller level investor under the proposed fiduciary definition (while the ability to handle institutional and high net worth individuals would continue to grow). Furthermore, the definition of "assets" in the BICE would still deny to the small and mid-level investor the ability to diversify wisely into non-traded alternatives--as do high net worth individuals and

[1]Section 913 of Dodd-Frank

institutions (the basic reason the Yale endowment model thrived during the overall market downturn). Thus, trillions of dollars of retirement savings would have little diversification strategy other than some generic “robo” 60/40 type allocation, poised with little cushion against perennial and potentially extreme volatility.

Conclusion

The Association supports the efforts of Congress and the Administration to improve access to wise financial advice for all levels of investors, thus improving capital and spurring economic growth. However, we also recognize the importance of striking the proper balance between investor protection and regulation with potential harmful effects. In general, ADISA believes there should be a broad definition for fiduciary investment advice rather than having a separate and limiting definition for qualified (IRA and ERISA) monies. The effect on the smaller investor would limit both the advice and the range of investment product available.

ADISA values the opportunity to provide its perspective and comments on the proposed rules, and we request appreciatively to testify before the DOL and continue this discussion as it regards the important issues for the protection of investors and their ability to access alternative markets.

Respectfully submitted,

John P. Harrison
Executive Director/CEO