CIEBA
The Committee on Investment of Employee Benefit Assets

July 22, 2015

Filed Via Email at e-ORI@dol.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, DC 20210

Re: Written request to testify at Conflict of Interest Rule Hearing

Dear Sir or Madam:

The Committee on Investment of Employee Benefit Assets (CIEBA) respectfully requests to testify at the Department of Labor's hearing to further consider specific issues regarding the conflict of interest proposed rule. We understand that the hearing will be held on August 10, 11, and 12, and, if necessary, August 13, 2015, beginning at 9:00 a.m. EDT.

CIEBA members are the chief investment officers of more than 100 of the Fortune 500 companies who individually manage and administer Employee Retirement Income Security Act (ERISA) - governed corporate retirement plan assets. CIEBA members voluntarily sponsor plans and manage almost $2 trillion of retirement assets on behalf of 17 million participants, representing a very significant portion of the largest private defined benefit and defined contribution pension plans in the US.

As you may know, CIEBA filed a comment letter on July 21, 2015, in response to the proposed conflict of interest rule. We request that Robin Diamonte, Chief Investment Officer, United Technologies Corporation, testify on behalf of CIEBA at the hearing. In our previously submitted written comments, we emphasized the following:

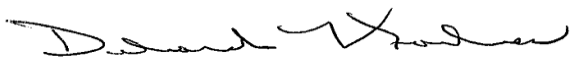
- Generally, the final rule should clarify that the "carve-outs" from investment advice are simply safe harbors and not the exclusive means to avoid fiduciary status.
- Plan sponsors should be allowed to continue to identify specific plan investment options as part of participant education.
- The final rule should clarify when a plan sponsor's communication to participants on the benefits of keeping assets in an employer's plan after termination of employment crosses the line from education to advice.
- The seller's carve out should not be expanded because it could create a loophole where participants would be expecting, but would not receive, unbiased investment advice that is in their best interest. However, the proposed rule should clarify that any threshold

adopted for the carve out will apply to the aggregate of all plans in the sponsor's controlled group.

- The platform provider carve out should be expanded to ensure that providers are not deemed fiduciaries merely because they offer investment options that are tailored to the needs of the plan or its participants.
- The carve out for plan sponsor employees who provide advice to a plan fiduciary should be clarified to include any other employee who provides advice or other information to the person who provides the advice to the plan fiduciary.
- The final rule should make clear that an employee's "normal compensation" does not constitute a "fee or other compensation, direct or indirect, in connection with the advice" where the employee's advice is outside the scope of the employees' duties for the plan sponsor.
- Where call center employees are employed by a third-party service provider, their fiduciary status should not be imputed to plan sponsors.
- Plan sponsors, as fiduciaries, should be allowed to offer any investments that they believe are prudent for their participants.
- There should not be a separate streamlined exemption for high-quality, low-fee investments.
- Recommendations made in the context of responding to an RFP issued by, or on behalf of, a plan sponsor should not be considered fiduciary advice.

CIEBA would appreciate this opportunity to testify and believe we can provide very useful input regarding the proposed conflict of interest rule from the plan sponsor perspective. Please contact me with any questions regarding CIEBA's request to testify at the hearing on August 12 or 13, 2015.

Sincerely,



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