



July 21, 2015

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

VIA EMAIL

Officers:

Harald E. Borrmann
Chair of the Board
Catholic United Financial

Patrick Dees
Vice Chair of the Board
Woodmen of the World

William B. McKinney
Immediate Past Board Chair
Thrivent Financial

Re: 1. Definition of the Term “Fiduciary”; Conflict of Interest Rule—Retirement
Investment Advice [RIN 1210—AB32]
2. Proposed Best Interest Contract Exemption [ZRIN 1210—ZA25]

To Whom It May Concern:

Directors:

Darby G. Callas
Modern Woodmen of America

Kasia Czarski
The Independent Order of Foresters

Douglas Baker
Teachers Life Insurance Society

Joseph Hoffman
The Order of United Commercial
Travelers of America

Timothy L. Kuzma
Polish Falcons of America

Cynthia Maleski
First Catholic Slovak Ladies
Association of America

Thomas P. Smith
Knights of Columbus

Marc Schoenfeld
Royal Neighbors of America

Kevin A. Marti
Gleaner Life Insurance Society

William O'Toole
Catholic Financial Life

Joseph J. Annotti
President and CEO

The American Fraternal Alliance (“Alliance”) represents 66 fraternal benefit societies and their more than nine million members across the United States. On behalf of our member societies and their members, we respectfully submit these comments on the Department of Labor’s notice of proposed rulemaking concerning the Definition of the Term “Fiduciary” (the “Proposed Regulation”), and the proposed Best Interest Contract Exemption.

Fraternal benefit societies (“fraternals”), licensed under state law, and operating under Section 501(c)(8) of the Internal Revenue Code (IRC), are not-for-profit mutual aid organizations that: (1) insure members and their families against death, disease and disability, and (2) operate under a “local lodge” system, a grassroots network of fraternal member-volunteers that help meet community and member needs. For more than a century, fraternals have been bringing people of a common purpose together to help meet needs in communities that would otherwise go unmet. As required under federal and state law, these not-for-profit membership organizations provide financial security to their members through the sale of individual insurance products, and use tax-exempt revenues generated from the sale of these products to fund community service and other activities across the country.

The Alliance supports a best interest standard for retirement advice, but we are concerned about the practical application of the Proposed Rule as currently drafted. However, we believe most of those concerns are being addressed by other sources, and thus we are limiting our comments to a section of the proposed rule that may have a particularly adverse impact on fraternal benefit societies.

Fraternals must provide insurance protection to their individual members. This includes life insurance, annuities, IRAs and health products, such as long term care and disability insurance. The ability of fraternals to provide these types of insurance products as benefits to their members is also necessary to support the considerable charitable and fraternal activities of fraternals and their local volunteer lodges across the country. These activities, which are set out in federal and state laws, include benevolent, educational, religious, patriotic, charitable, and volunteer activities.

Annual Meeting
Sept. 10-12, 2015
Indianapolis, IN

We are greatly concerned that the Proposed Regulation appears to assume that any limitation that a fraternal or other financial institution imposes on the types of investment products an investor can purchase, sell or hold would prevent the institution from offering a broad range of investment options reasonably necessary to serve the best interests of the investor. We strongly disagree with that belief. A financial institution, which focuses on its own products, such as a fraternal benefit society, is not precluded from having a sufficient number of products that would enable it to offer a broad range of investment options reasonably necessary to serve the best interests of its investors. (For your reference, our specific concern is with Section IV of the Best Interest Contract Exemption – BICE.)

While it seems to us that these higher compliance standards should only be applied to financial institutions that don't provide a broad enough range of investment options, it is of particular concern to fraternal. As described earlier, fraternal are required by law to provide their members with insurance products. Indeed, providing their own insurance products to their members also provides fraternal with the needed funding that fuels the local community and charitable activities that fraternal and their members carry out. In fact, providing members with insurance products is a fundamental basis for the existence of fraternal benefit societies and is necessary for the continued success of fraternal contributions to the public well-being across the United States. In 2014, an academic study concluded that the tax exemption of fraternal enabled us to provide a \$3.8 billion yearly benefit to communities.¹

Thus, while we agree that investors (in our case, the individual members of fraternal) should be provided a sufficient range of investments, we do not believe that a fraternal benefit society that encourages the sale of its own insurance products should be held to the additional conditions set out in the proposed rule (Section IV of the BICE). Instead of imposing these conditions, we propose that the fraternal benefit society be required to disclose to its members why it encourages the sale of its own insurance products.

Thank you for your consideration.

Best regards,



Joseph Annotti, CEO
American Fraternal Alliance

¹ Phillip L Swagel, Economic Contributions of Fraternal Benefit Societies: A Five Year Perspective [Swagel Study] 21 (2014).