CUNA MUTUAL GROUP
CMFG Life Insurance Company

August 5, 2020

Submitted electronically to www.regulations.gov; Docket ID Number: EBSA-2020-0003

U.S. Department of Labor
Employee Benefits Security Administration
Office of Exemption Determinations
200 Constitution Avenue, N.W.
Washington, DC 20210

Re: Notice of Proposed Rulemaking, Improving Investment Advice for Workers & Retirees (ZRIN 1210-ZA29, EBSA-2020-0003)

Greetings:

On behalf of the companies of CUNA Mutual Group (CUNA Mutual), we are pleased to provide comments to the Department of Labor (Department) in response to the proposed class exemption from certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974, as amended (ERISA), and the Internal Revenue Code of 1968 (the Code) published on July 7, 2020 (Proposed Exemption).

CUNA Mutual is the nation's leading provider of financial products and services to credit unions and credit union members. Through our companies, we serve as an insurer, a retirement plan services provider, a broker-dealer, and a registered investment adviser. We make available various annuity and retirement products to more than 350,000 people in the United States, most of whom are credit union members. As part of the cooperative movement, we embrace the credit union philosophy of "people helping people" and our company's mission is to "Help people achieve financial security."

Since the Department's fiduciary rule package was proposed in 2016, and in response to subsequent state and federal fiduciary and best interest rule proposals, CUNA Mutual has commented in support of a workable, appropriately tailored best interest standard harmonized across jurisdictions. The Department's most recent proposal lines up with these concepts.

CUNA Mutual believes in the importance of high-quality financial advice that fits the particular needs of the consumer. We take pride in helping those who make a modest income. We commend the Department for comments made in announcing the proposal which recognized the wide range of investment advice models and relationships needed to help different people achieve retirement and financial security—a goal which can be consistent with ensuring investment advice given to workers and retirees is in their best interest. We thank the Department for leading on this issue.

Regulatory Consistency Critical, Appreciated

CUNA Mutual appreciates efforts by the Department to align required standards of conduct across jurisdictions by pursuing a standard that aligns with the U.S. Securities and Exchange Commission's (SEC) Regulation Best Interest. CUNA Mutual echoes and supports Department beliefs that the DOL's proposed actions, when coupled with actions by the SEC, will strengthen retirement security across the country. CUNA Mutual encourages the Department to address additional opportunities for alignment to minimize confusion for consumers and financial advisors alike, such as by confirming the disclosure requirements under the Proposed Exemption can be satisfied with the disclosures required under the SEC's Regulation Best Interest standard.

<u>CUNA Mutual Supports the Proposed Exemption and Technical Amendments to the Code of Federal Regulations</u>

CUNA Mutual supports the Department's Proposed Exemption offering a new prohibited transaction exemption for investment advice fiduciaries. Together, the Proposed Exemption and technical amendments to the Code of Federal Regulations offer some needed clarifications following the 5^{th} Circuit Court of Appeals vacatur[1] of the Department's 2016 fiduciary rule package. However, CUNA Mutual believes the Department can best aid workers, retirees, and the retirement industry by making a few additional revisions to the Proposed Exemption.

In particular, CUNA Mutual believes the requirement to acknowledge fiduciary status is likely to limit utilization of the Proposed Exemption. Uncertain as to whether their services are fiduciary in nature under the "five-part test" (29 CFR § 2510.3-21(c)(1)), financial institutions may choose to no longer offer or "pull-back" certain services to ensure services are clearly non-fiduciary in nature under the Department's Interpretive Bulletin 96-1. Such a result could make it more difficult for workers and retirees to achieve and maintain retirement security.

CUNA Mutual promotes expansive use of the Proposed Exemption. We recommend the Department clarify that the Proposed Exemption can be used by Pooled Plan Providers for Pooled Employer Plans as outlined in the Setting Every Community Up for Retirement Enhancement (SECURE) Act enacted on December 20, 2019.

Finally, CUNA Mutual is concerned the preamble to the Proposed Exemption re-interprets the "five-part test" in a way that is inconsistent with the 5^{th} Circuit Court's vacatur and is unnecessarily expansive. CUNA Mutual believes confusion caused by the preamble could make it difficult for financial institutions to determine fiduciary status under the "five-part" test, potentially resulting in reduced retirement industry services and extra costs for workers and retirees.

In closing, CUNA Mutual asks the Department to consider the suggested revisions above and any revisions which serve to expand the utility of the Proposed Exemption that may be offered in comment letters by retirement industry trade associations and financial institutions. Like others in the industry, we work hard each day to bring financial products and services to people across the country who need them most. Please reach out with any questions or if we can offer additional information to support these comments. Thank you.

Sincerely,

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