



4510-29-P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2550

RIN 1210-ZA29

Hearing on Improving Investment Advice for Workers & Retirees

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Announcement of hearing.

SUMMARY: Notice is hereby given that the Employee Benefits Security Administration (EBSA) will hold a public hearing to consider issues attendant to adopting a proposed prohibited transaction exemption on Improving Investment Advice for Workers and Retirees. Testimony will be limited to individuals or parties who submitted, in accordance with the instructions included in the proposed prohibited transaction exemption, a comment or hearing request on the proposed exemption before the close of the comment period. Due to the COVID-19 pandemic, the hearing will be held virtually and there will be no in-person testimony.

DATES: The hearing will be held on September 3 and (if necessary) September 4, 2020, beginning at 9 a.m. EDT. Requests to testify at the hearing on the proposed exemption should be submitted to the Department on or before August 28, 2020.

ADDRESSES: Requests to testify, including an outline of the issues you propose to address in your testimony, must be submitted through the *Federal eRulemaking Portal*: www.regulations.gov at Docket ID number: EBSA-2020-0003. Follow instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Mark Connor, (202) 693-8337, Employee Benefits Security Administration (EBSA). This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Instructions for Submitting Requests to Testify

In light of the current circumstances surrounding the COVID-19 pandemic caused by the novel coronavirus which may result in disruption to the receipt of requests to testify by U.S. Mail or hand delivery/courier, persons are encouraged to submit all requests to testify electronically and not to follow with paper copies. Requests to testify, including outlines, will be available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N-1513, 200 Constitution Avenue NW, Washington, DC 20210; however, the Public Disclosure Room may be closed due to circumstances surrounding the COVID-19 pandemic caused by the novel coronavirus. Requests to testify, including outlines, will also be available online at www.regulations.gov, at Docket ID number: EBSA-2020-0003 and www.dol.gov/agencies/ebsa, at no charge.

Warning: All submissions received will be included in the public record without change and will be made available online at www.regulations.gov and www.dol.gov/agencies/ebsa, including any personal information provided, unless the submission includes information claimed to be confidential or other information whose disclosure is restricted by statute. If you submit a request to testify, you should include your name and other contact information, but DO NOT submit information that you consider to be confidential, or otherwise protected (such as Social Security number or an unlisted phone number), or confidential business information that you do not want publicly disclosed.

However, if EBSA cannot read your submission due to technical difficulties and cannot contact you for clarification, EBSA might not be able to consider your request.

Additionally, the www.regulations.gov website is an “anonymous access” system, which means EBSA will not know your identity or contact information unless you provide it.

Background

On July 7, 2020, the Department published in the Federal Register a proposed prohibited transaction exemption for investment advice fiduciaries that would provide relief that is broader and more flexible than the Department’s existing exemptions. The proposed exemption would also provide regulatory certainty and streamline regulatory requirements as investment advice fiduciaries could comply with one exemption for a variety of different types of transactions.

Since publication in the Federal Register, there has been considerable interest expressed regarding the proposed prohibited transaction exemption, as well as several public comments requesting a hearing. The Department has decided to hold a public hearing on this proposed prohibited transaction exemption to provide commenters an opportunity to present material factual issues that cannot be fully explored through written submission. The hearing will be held on September 3 and (if necessary) September 4, 2020, beginning each day at 9 a.m. EDT, via WebEx. The hearing will be transcribed. Persons interested in presenting testimony and answering questions at this public hearing must submit, by 11:59 p.m. EDT, August 28, 2020, a written request to testify and an outline of the issues they would like to address at the hearing. Testimony will be limited to individuals or parties who submitted, in accordance with the

instructions included with the proposed exemption, a comment or hearing request on the proposed exemption before the close of the comment period.

Outlines should present material factual issues and demonstrate that the proposed testimony is both germane to factual issues needing exploration at the hearing that could not have been submitted in writing, and not duplicative of arguments and factual material previously included in the requestor's comment letter. In addition to the outline, all requests to testify must clearly identify: (1) The name of the person desiring to serve as a witness; (2) the organization or organizations represented, if any; (3) contact information (address, telephone, and email); and (4) the date of the comment letter or hearing request submitted by the person or organization concerning the proposed exemption. Any individuals with disabilities who need special accommodations in order to testify should contact EBSA after submitting their written request concerning the scheduling of their testimony. The hearing will be open for viewing to the general public, and registration information for those who wish to view the hearing will be available at www.dol.gov/agencies/ebsa.

Depending upon the number and nature of the requests to testify, and in light of the limited time available for the public hearing, EBSA may need to further limit the number of those testifying in order to provide an opportunity for the presentation of the broadest array of points of view on all aspects of the proposed exemption during the period allotted for the hearing and to curtail testimony that is only cumulative or not germane to the factual issues being explored. The Department expects to organize the hearing into panels of witnesses with several witnesses on each panel. The Department will assign panel slots only to those persons or organizations whose outline indicates that

they will present material factual issues that cannot be fully explored through written submission. The Department will not assign panel slots to those persons or organizations whose outlines identify only issues of law. The Department will also give preference, to the extent feasible, to parties with similar interests who select a common representative to testify on their behalf, and to parties who requested a hearing (or to participate in a hearing if held) in their written submissions during the comment period.

EBSA will prepare an agenda indicating the order of presentation of oral testimony. In the absence of special circumstances, each presenter will be allotted a minimum of ten minutes in which to complete his or her presentation. Those individuals who make oral comments and present testimony at the hearing should be prepared to answer clarifying questions, if necessary, regarding their information and comments. Those requesting to testify also should be prepared to participate as part of a panel. Information about the agenda for the hearing and further directions for hearing participants will be posted on www.regulations.gov and www.dol.gov/agencies/ebsa no later than August 31, 2020.

Notice of Public Hearing

Notice is hereby given that a public hearing will be held on September 3 and (if necessary) September 4, 2020 concerning the proposed prohibited transaction exemption on Improving Investment Advice for Workers and Retirees published in the Federal Register on July 7, 2020 (85 FR 40834). The hearing will be held beginning at 9 a.m. EDT and will be held virtually. Registration information for those who wish to view the hearing will be available at www.dol.gov/agencies/ebsa.

All requests to testify and outlines of testimony will be available to the public, without charge, online at www.regulations.gov and www.dol.gov/agencies/ebsa or at the Public Disclosure Room, N-1513, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Warning: Do not include any personally identifiable information (such as Social Security Number or an unlisted phone number) or confidential business information that you do not want publicly disclosed. All requests to testify and outlines of testimony may be posted on the Internet and can be retrieved by most Internet search engines.

Signed at Washington, DC, this 21st day of August, 2020.

JEANNE KLINEFELTER WILSON
Acting Assistant Secretary
Employee Benefits Security Administration
U.S. Department of Labor

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