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On Behalf of
National Association of Personal Financial Advisors (NAPFA)

"Retirement Security Rule: Definition of an Investment Advice Fiduciary
and Associated Prohibited Transaction Exemption Amendments"

United States Department of Labor
Employee Benefits Security Administration

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1. Introduction

My name is Daphne Jordan. I am a Senior Wealth Advisor at Pioneer Wealth Management Group in Austin, Texas. I am testifying today on behalf of the National Association of Personal Financial Advisors -- NAPFA -- where I serve as Chair of the Board of Directors.

NAPFA appreciates this opportunity to testify in support of the Department's Proposed Rule to expand the definition of the term "fiduciary" under ERISA. My testimony today consists of two parts.

First, I will describe NAPFA and why NAPFA Advisors, who provide fiduciary-level financial planning services to American retirement savers, support the Department's Proposed Rule. Second, I will share some of my professional experiences, as a NAPFA member at Pioneer Wealth Management Group.

My testimony will make clear why NAPFA urges the Department to adopt the Proposed Rule. It would establish a "level playing field" for all retirement advice and retirement investments. It would require that all retirement advice and retirement investments meet ERISA's stringent fiduciary standards. And, it would provide other urgently needed regulatory protections for retirement savers.

2. About NAPFA

NAPFA was founded 40 years ago in 1983 and is the nation's leading organization of Fee-Only, comprehensive financial planning professionals. There are more than 4,600 NAPFA members across the country serving clients from all backgrounds. NAPFA members adhere to standards of professional conduct that are widely recognized as among the highest in the financial planning profession.

Each year a NAPFA member must sign NAPFA's Fiduciary Oath and Code of Ethics which generally require a NAPFA member always to act in good faith; to be proactive in disclosing conflicts of interest; and to not accept any commissions, referral fees, or compensation that is contingent upon the purchase or sale of a financial product. NAPFA members must truly be "Fee-Only" financial professionals.

A "NAPFA-Registered Financial Advisor" must be registered with the Securities and Exchange Commission, or with a state securities regulator, as a "registered investment adviser" or "RIA." Under the securities laws, the Investment Advisers Act imposes a fiduciary duty on all RIAs.

A "NAPFA-Registered Financial Advisor" also must hold the CERTIFIED FINANCIAL PLANNER™ designation from the Certified Financial Planner Board of Standards. A CFP® professional must comply with the CFP Standards which reflects the commitment of CFP professionals to high standards of competency and ethics.

As a result, a "NAPFA-Registered Financial Advisor" operates under three complementary sets of ethical standards: one set under NAPFA's Fiduciary Oath and Code of Ethics; a second set under the Investment Advisers Act, which imposes securities law fiduciary requirements on all RIAs; and a third set under CFP Standards.

You might ask why NAPFA Advisors are "Fee-Only" and do not accept commissions. Simply put, financial professionals who receive commissions are paid based on the financial products they sell to their clients. This can lead to a conflict of interest between the financial professional, whose compensation may be tied to the recommendation of a financial product, and the client who, in this relationship of "trust and confidence," reasonably expects financial advice that is solely in the client's best interest.

Because of this conflict of interest, financial professionals who are paid from commissions may have difficulty placing the client's best interest above the financial professional's personal financial interest. NAPFA's position is that the Fee-Only method of compensation is the most transparent and objective compensation method available in today's marketplace. Fee-Only compensation minimizes conflicts of interest and allows NAPFA Advisors to act as true fiduciaries.

We hope that retirement savers and the public increasingly recognize the similarities between the updated and strengthened fiduciary standards contained in the Proposed Rule and how NAPFA Advisors provide financial advice to retirement savers every single day.

3. NAPFA Support for The Proposed Rule

Since the year 2010, when the Department first proposed updating the 1975 "five-part test" to determine ERISA fiduciary status, NAPFA has consistently called for an unambiguous fiduciary standard to apply to all persons who provide advice to retirement savers.

NAPFA advocated in favor of the Department's successful adoption of the 2016 Investment Advice Rule. NAPFA recognized that, unlike the past when traditional pension plans assured financial independence in retirement, today's retirement savers increasingly are responsible for making the key decisions about how their retirement savings are invested.

Fiduciary-level advice is particularly critical when Americans roll over their 401(k) plan assets into IRAs. For many Americans, whether to roll over, and how to invest their retirement nest egg, are among the most important financial decisions they will ever make. NAPFA believes that financial professionals who provide retirement advice, especially advice concerning ERISA qualified plans, must always act in a fiduciary capacity.

Reg BI Is Insufficient to Protect Retirement Savers

NAPFA also called for the Securities and Exchange Commission to include strong fiduciary standards, such as those under CFP Standards, in its 2019 Regulation Best Interest known as "Reg BI." NAPFA has continued to urge the SEC to do more to protect retail investors and retirement savers. Reg BI, however, does not solve the problem of conflicted retirement advice. Since Reg BI only applies to securities recommendations, transactions involving non-securities are not covered. Equally as important, Reg BI does not apply to ERISA retirement plan advice. NAPFA believes that the protections available to retirement savers under ERISA should exceed those available under the SEC's Reg BI and should apply to all retirement assets.

Advice to Underserved Communities

Critics argue that the Proposed Rule would reduce access to retirement advice, especially to middle-income retirement savers. NAPFA disagrees with this assertion. The Proposed Rule should not reduce access to retirement advice to American households. NAPFA Advisors provide financial planning services and retirement advice to clients from all backgrounds and income levels. Rather than limiting access, the Proposed Rule would likely lead to increased marketplace innovation, and to the development of improved financial products and services benefitting retirement savers.

I also note that NAPFA believes that financial planning is not just for the wealthy. NAPFA and the NAPFA Foundation have partnered with "Advisers Give Back," a platform that allows NAPFA Advisors to provide pro-bono financial planning services to qualifying clients at no cost. NAPFA Advisors also can volunteer to provide pro bono financial services to underserved communities through The Foundation for Financial Planning®.

4. My Business as a NAPFA Advisor

Now I would like to mention my business as a NAPFA Advisor at Pioneer Wealth Management Group. Pioneer has been serving clients for 19 years and is registered with the Securities and Exchange Commission as a "registered investment adviser" -- a "RIA." We are a fee-only RIA firm and serve clients though our office in Austin, Texas. We practice what many in our profession call "holistic financial planning and investment management." We always act solely in the best interest of each client we serve.

Our 8 financial professionals include NAPFA Advisors and CERTIFIED FINANCIAL PLANNER™ professionals. We provide financial planning services, ongoing investment advice, and retirement advice based on the individual needs of the client. We also provide consulting services for small businesses.

We don't have asset minimums, which makes it easier for us to offer our professional services, including retirement advice, to clients from a range of income levels in a fiduciary manner. So how are we paid at Pioneer? Typically, we charge a flat fee for financial planning; or we charge an asset management fee based on the amount of assets a client asks us to manage for them; and in other circumstances we may charge an hourly fee.

To minimize conflicts of interest, we are all paid a salary. We do not earn commissions or referral fees, and we do not pay our employees any commissions. Since we operate under a fee-only business model, our only compensation comes from the fees that our clients pay us. In other words, we at Pioneer Wealth Management Group provide fiduciary-level financial planning services, investment advisory services, and retirement advice to our clients in a manner that is consistent with the Department's Proposed Rule.

NAPFA is a group of like-minded financial professionals. I choose to be a NAPFA member so that I can remain connected to a powerful group of like-minded fiduciary financial planners. NAPFA members openly share ideas about how to serve clients in a holistic, transparent, and comprehensive manner without the distraction of having to generate commission compensation. I love working with my clients at Pioneer Wealth Management Group, and I love what I do!

5. Conclusion/Closing

NAPFA believes that the CFP Standards are aligned with the Proposed Rule and provide a workable framework -- which is used by CFP professionals today -- to help the Department develop and implement the proposed ERISA fiduciary definition.

NAPFA encourages the Department to adopt new regulations that do not merely mirror language from the SEC's 'Regulation Best Interest,' but instead would establish strengthened safeguards under ERISA to protect retirement savers against conflicts of interest.

The Proposed Rule is a major step forward to update and strengthen the fiduciary standard of care for the millions of hard-working Americans with retirement plans. NAPFA commends the Department for taking this important step to protect retirement savers.

I thank the Department for this opportunity to testify in support of the Proposed Rule. I am happy to take your questions.