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NAFA Seeks Preliminary Injunction against DOL Fiduciary Rule

Association Files Suit Alleging ‘Irreparable Harm’ to Members

WASHINGTON (June 2, 2016) — NAFA, the National Association for Fixed Annuities, announced today that it has filed a federal lawsuit in the D.C. District Court challenging the Department of Labor’s new “fiduciary rule.” The lawsuit seeks a preliminary injunction to stay the rule, which is currently scheduled to become operational in April 2017.

“NAFA believes this action is necessary, not only to defend the interests of our members, but to protect consumers against excessive government regulation that will only hurt average working Americans trying to save for retirement,” said Chip Anderson, Executive Director of NAFA.

The lawsuit alleges the DOL rule is invalid on grounds that the agency exceeded its authority to regulate IRAs and that it improperly categorizes insurance agents as fiduciaries. The lawsuit further alleges that the rule creates a private right of action, which only Congress can do.

The suit further alleges that DOL’s decision to include fixed indexed annuities (FIAs) under the Best Interest Contract Exemption (BICE) in the final rule – rather than under the less onerous PTE 84-24 as originally proposed – with no opportunity for meaningful comment and without adequate justification was arbitrary and capricious. As fixed insurance products and not securities, FIAs and those who create, distribute and sell them stand to be uniquely harmed by this rule.

“The inherent problems with this rule are vast and far-reaching,” said Anderson. “This rule is administratively unworkable, especially for the fixed annuity industry, and that means quality

products and advice currently available to middle-income Americans will be harder to access and more expensive,” added Anderson.

The brief filed with the lawsuit contends the new rules are unworkable for insurance companies, independent marketing organizations and individual agents, largely because the DOL rule and exemptions are designed for the securities industry.

“Our organization strongly supports consumer protection but this rule exceeds DOL’s rulemaking authority and will result in lost jobs in our industry, less choice for consumers and more lawsuits to line the pockets of class action lawyers. We will do whatever we can to help policymakers create real solutions, but this rule will do more harm than good, and we will challenge it in the courts,” said Anderson.

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About NAFA

NAFA, the National Association for Fixed Annuities, is the premier trade association exclusively dedicated to fixed annuities. Our mission is to promote the awareness and understanding of fixed annuities. We educate annuity salespeople, regulators, legislators, journalists, and industry personnel about the value of fixed annuities and their benefits to consumers. NAFA’s membership represents every aspect of the fixed annuity marketplace covering 85% of fixed annuities sold by independent agents, advisors and brokers. NAFA was founded in 1998. For more information, visit www.nafa.com.