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## **DOL Finalizes Plans for Fiduciary-Only Regime**

### **New Rulemaking Package Ignores Industry Concerns, Puts Independent Annuity Professionals and Clients at Risk**

**WASHINGTON** (Apr. 23, 2024) — Today, the U.S. Department of Labor released the final version of its “**Retirement Security Rule**.” After initial review of the fiduciary rulemaking package as detailed in the **Fact Sheet**, it appears that the Department failed to make any substantive or meaningful improvements to the proposed rule despite significant, specific and data-supported feedback from industry stakeholders. As a result, financial services professionals face a new regulatory regime that imposes a blanket fiduciary threshold for recommending an annuity in a rollover transaction. Moreover, the DOL has largely left intact a constrained and practically unworkable PTE 84-24, a prohibited transaction exemption that has served both retirement savers and those giving financial advice for decades.

“Though disappointing, the release of this final rule is unsurprising,” said Chuck DiVencenzo, NAFA’s president and CEO. “It has been obvious from the outset that the DOL was intent on continuing its quest to push the regulatory boundary of IRAs past the original Congressional intent of The Employee Retirement Income Security Act of 1974 under false pretenses supported by back-of-the-napkin calculations.

“The process has been marred by a paucity of meaningful engagement between the DOL and industry stakeholders. Instead, the Department has dangerously rushed to put into effect a rule that disregards the value of independent distribution, the desire for Main Street savers to work with the professional service providers of their choosing and the need for products that can provide predictable lifetime income. Ultimately, we anticipate more confusion, higher costs and less financial security for low- and middle-income savers who need it most.”

Recently, fixed annuity sales have experienced several quarters of record sales numbers, in part due to consumer concerns about ongoing market volatility and longevity risk. Annuities are the only financial product that allows retirement savers to protect a portion of their nest egg from market declines while providing the opportunity to earn interest and generate a predictable stream of income payments that last a lifetime. Meanwhile, according to the Investment Company Institute, approximately \$6.9 trillion in assets are held in more than 710,000 401(k) plans, on behalf of about 70 million active participants and millions of former employees and retirees. The

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new rule is expected to significantly hinder the ability of independent annuity professionals to use annuity products to help Americans move some of their hard-earned retirement savings out of such defined contribution plans into a vehicle that can help augment their retirement security.

“This Administration has repeatedly cited its desire to institute commonsense policies that help protect consumers from financial harm. Yet here we are with new regulations that contradict robust, uniform consumer protections that have been implemented by the states to ensure financial professionals are providing recommendations in their clients’ best interests,” said DiVencenzo. “Currently, according to LIMRA data, more than 40 percent of annuity sales are conducted by those professionals in the independent channels, which will unquestionably be most negatively impacted by the burdensome compliance requirements of this rule. Instead of celebrating the hard work these professionals do to combat retirement savings challenges, the DOL is effectively threatening their livelihoods and the future of millions of Americans they diligently serve.”

In the days ahead, NAFA will work in close partnership with its membership, industry trade association colleagues and legal counsel to conduct a comprehensive analysis of the final rule and will now pivot to all necessary and available avenues to fight this regulatory overreach.

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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 fixed annuities sold by independent agents, advisors and brokers. NAFA was founded in 1998. For more information, visit [www.nafa.com](http://www.nafa.com).