



December 22, 2023

Mr. John Canary
Director
Office of Regulations and Interpretations
Employee Benefits Security Administration
Room N-5655
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210
Attn: Definition of Fiduciary – RIN 1210- AC02

Re: Proposed Rule: Retirement Security Rule: Definition of an Investment Advice Fiduciary (RIN 1210- AC02)

Dear Director Canary:

We appreciate the opportunity to comment in support of RIN 1210- AC02, Retirement Security Rule: Definition of an Investment Advice Fiduciary as proposed by the Employee Benefits Security Administration on November 3, 2023.

The AICPA is the world's largest member association representing the accounting profession, with more than 421,000 members in the United States and worldwide and has a history of serving the public interest since 1887. Approximately 138,000 AICPA members advise individual, family and business owner clients on personal financial planning matters including tax, estate, retirement, investments, and risk management while protecting the best interest of the public. The AICPA sets ethical and practice standards for the profession, offers specialized credentials including the Personal Financial Specialist credential, and drives professional competency development to advance the vitality, relevance, and quality of the profession.

Ten years ago, AICPA implemented financial planning standards under the Statement on Standards in Personal Financial Planning Services (SSPFPS) as a part of the AICPA's Code of Professional Conduct. The SSPFPS, within the AICPA Code, are enforceable financial planning standards that CPAs abide by and apply to all AICPA members providing personal financial planning services regardless of the jurisdictions in which they practice. They are also adopted into many state laws, so they are also applicable to many non-member CPAs. These standards require CPAs to assess whether there are any conflicts of interest related to client engagements. If a conflict of interest exists, the CPA should determine if they can perform the engagement objectively. If they can, they must disclose all known conflicts of interest and obtain written consent. If they cannot, the engagement must be terminated. This applies not only to ERISA plans but to all engagements.

We recommend that the new rules follow the SSPFPS which are the only financial planning standards regulatorily. This would:

- Harmonize regulations affecting financial planners
- Provide the highest level of consumer protection
- Utilize consistent standards that unwaveringly follow professional standards rooted in the AICPA Code, which has served as a bulwark of sound professional guidance for financial professionals for over 100 years.

Thank you for the opportunity to comment on the proposed rules regarding the retirement security rule and defining an investment advice fiduciary. We are happy to discuss any of the above-mentioned comments and suggestions in further detail as the Office of Regulations and Interpretations works through this rulemaking. For any questions or clarification, please contact Kate Kiley, Director of Congressional and Political Affairs at Kate.Kiley@aicpa-cima.com, or at 202-434-9219, or Dan Snyder, AICPA Director of Personal and Financial Planning at Dan.Snyder@aicpa-cima.com.

Sincerely,



Brooke Salvini, CPA, PFS, CFP®
Chair, AICPA Personal Financial Planning Executive Committee