

PRESS RELEASE



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ACLI, NAIFA File Legal Challenge Against Harmful Regulation To Retirement Savers

ACLI President & CEO Dirk Kempthorne and NAIFA CEO Kevin Mayeux issued the following statement today on their organizations' lawsuit challenging the U.S. Labor Department's fiduciary regulation:

Washington, D.C. , (June 8, 2016) - "After careful deliberation, the American Council of Life Insurers (ACLI) and National Association of Insurance and Financial Advisors (NAIFA*) have concluded that their commitment to present and future retirees requires them to challenge the U.S. Department of Labor's fiduciary regulation in court.

"ACLI and NAIFA do so reluctantly.

"ACLI and NAIFA believe it is essential that all Americans receive the financial advice they want and need about managing savings in their 401(k)s, IRAs and other retirement plans. ACLI and NAIFA support responsible and balanced regulations that protect the interests of retirement consumers. But the regulation is neither reasonable nor balanced. It has become clear that it will harm the very people it is meant to help. It will harm retirement savers who now, more than ever, need access to the guaranteed lifetime income products – personal pensions – offered by ACLI and NAIFA members:

- The regulation will impact Americans' access to accurate and valuable information from financial professionals about their 401(k)s, IRAs and other retirement plans, including information about guaranteed lifetime income products such as annuities. Annuities are the only products in the private marketplace that guarantee lifetime income. Among other features, they can protect retirees against downturns in the equities markets.
 - After a regulator in the United Kingdom tried a similar approach in 2012, the UK Treasury Department and Financial Conduct Authority in March 2016 issued a report, [Financial Advice Market Review](#) that said, "a gap exists for people on lower incomes or with lower levels of assets who cannot afford to pay the fee for advice or find it harder to access."
- In addition to affecting retirement planning products and the importance of saving for the long-term, the regulation will impact the availability of lifetime income products in the marketplace. The rule directly regulates commercial speech by imposing fiduciary obligations on recommendations about retirement products. The Department's rule will classify virtually all commercial interactions between those selling life insurance products and retirement

investors as “fiduciary” advice, despite the fact those relationships have never before been deemed fiduciary and do not bear the hallmarks of fiduciary status.

- With no authority from Congress, and inconsistent with clear congressional intent, the Department of Labor created a private right-of-action for plaintiffs’ lawyers and state courts to enforce its complex and vague standards. Congress alone has the responsibility to ensure evenhanded, consistent, and predictable enforcement of the law. This approach places life insurance companies and financial professionals under a perpetual threat of litigation that will increase the cost and affect the availability of retirement products for low- and middle-income Americans.
- Despite hearing about these profound problems from a broad range of commenters, the Department failed to reasonably assess and evaluate the profound adverse effects of the regulation on consumers and greatly overstated its benefits.
 - The Department unreasonably and arbitrarily relied on outdated studies relating principally to other kinds of investments, rather than on current information about guaranteed lifetime income products.
 - The Department unreasonably and arbitrarily dismissed the existing and effective regulatory structure enforced by the Securities and Exchange Commission, the Financial Industry Regulatory Authority, and state insurance regulators. These multiple layers of consumer protections prohibit financial professionals from recommending transactions unless they are appropriate for a specific retirement saver. The protections already prohibit giving untruthful or misleading information to Americans investing in retirement products.

“At a time when Americans need more help than ever before with planning for retirements that can last 20 years, 30 years or more, the Department would make financial advice unavailable to so many.

“The ACLI-NAIFA litigation details how the rule is arbitrary and capricious, contrary to law, fails to provide notice and comment on changes made to different types of annuities, and violates First Amendment protections for non-fiduciary sales persons to provide accurate, non-misleading commercial speech about retirement products.”

The full complaint can be read here.

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*In addition to NAIFA-National, NAIFA-Texas has joined ACLI in the judicial challenge, along with five NAIFA local associations: NAIFA-Amarillo, NAIFA-Dallas, NAIFA-Fort Worth, NAIFA–Great Southwest, and NAIFA–Wichita Falls.

The American Council of Life Insurers (ACLI) is a Washington, D.C.-based trade association with approximately 300 member companies operating in the United States and abroad. ACLI advocates in federal, state, and international forums for public policy that supports the industry marketplace and the 75 million American families that rely on life insurers’ products for financial and retirement security. ACLI members offer life insurance, annuities, retirement plans, long-term care and disability income insurance, and reinsurance, representing more than 90 percent of industry assets and premiums. Learn more at www.acli.com.

About NAIFA: Founded in 1890 as The National Association of Life Underwriters (NALU), NAIFA is one of the nation’s oldest and largest associations representing the interests of [insurance](#) professionals from every Congressional district in the United States. NAIFA members assist consumers by focusing their practices on

one or more of the following: life insurance and annuities, health insurance and employee benefits, multiline, and financial advising and investments. NAIFA's mission is to advocate for a positive legislative and regulatory environment, enhance business and professional skills, and promote the ethical conduct of its members.