



February 14, 2018

The Honorable Jeanne Klinefelter Wilson
Deputy Assistant Secretary for Policy
Employee Benefits Security Administration
200 Constitution Avenue NW, Suite S-2524
Washington, D.C. 20210

Dear Ms. Wilson:

This letter is to express our thanks to you, deputy assistant secretary Hauser, and your colleagues at the Department who took time last week to meet with us. We very much appreciate your time and ideas.

As discussed, we believe it is vital that fixed indexed annuities (FIAs) be treated the same as all other fixed annuities and that FIAs be moved back permanently to PTE 84-24 or a similar exemption appropriate for annuities sold through independent agents. FIAs should not be included in the BICE which was designed for and tailored to the securities industry.

We were encouraged to hear at the meeting that the Department is interested in understanding our concerns. We were also encouraged that the Department is pursuing solutions to make the exemptions more workable and ensure Americans continue to have access to FIAs to save for retirement.

However, we must be clear, that the BICE is inherently incompatible with independent distribution because insurance companies cannot warrant "prudence" or "loyalty" of independent agents as those terms are used in ERISA vis-à-vis other company products and compensation. The answers contained in the Department FAQs are ambiguous at best and are no substitute for correction to the exemptions themselves. There will simply be too much risk to sell FIAs unless these products are removed from BICE (with or without a written agreement requirement) and placed in PTE 84-24 or something equivalent.

We hope the Department will examine these issues carefully for the sake of the many medium sized insurance companies, hundreds of small marketing businesses, and thousands of individual agents impacted by these exemptions. We believe the Department can achieve its goals of protecting consumers without disrupting the independent agent model and welcome the opportunity to discuss this further.

Again, thank you for your time and consideration of our concerns, and we look forward to continuing a productive dialogue with your office.

Sincerely,

Dwight Carter
President
Financial Security Associates

Paul Garofoli
Vice President
National Western Life

Kim O'Brien
CEO
AssessBEST

Eric Marhoun
General Counsel
F&G Life

cc: The Honorable Timothy D. Hauser, Deputy Assistant Secretary for Program Operations
The Honorable Dean A. Heyl, Director, Office of Public Liaison