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SERVICES
INSTITUTE**

VOICE OF INDEPENDENT
FINANCIAL SERVICES
FIRMS AND INDEPENDENT
FINANCIAL ADVISORS

VIA ELECTRONIC MAIL

February 26, 2018

Office of Regulations and Interpretations
Employee Benefits Security Administration
Room N-5655
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Re: Definition of Employer – Small Business Health Plans; RIN 1210-AB85

Dear Director Canary:

On January 5, 2018, the Department of Labor's Employee Benefits Security Administration (EBSA) published a request for public comment on its proposal to expand the criteria under which employers may join together as a group or association to sponsor a group health plan or employee welfare benefit plan. The proposal would treat the association as the employer sponsor of the plan in order to facilitate the adoption and administration of these arrangements. (Proposed Rule).¹ The Proposed Rule is intended to expand access to affordable health coverage, especially for small employers and the self-employed.

The Financial Services Institute² (FSI) appreciates the opportunity to comment on this important proposal. We applaud EBSA's efforts to allow associations to provide health insurance to members through association health plans (AHPs) that can be tailored to fit the group's unique needs and take advantage of economies of scale otherwise unavailable to small businesses. We urge EBSA to expeditiously adopt this important Proposed Rule.

Background on FSI Members

The independent financial services community has been an important and active part of the lives of American investors for more than 40 years. In the US, there are more than 160,000 independent financial advisors, which account for approximately 52.7 percent of all producing

¹ U.S. Department of Labor, Employee Benefits Security Administration, Proposed Rule: Definition of "Employer" Under Section 3(5) of ERISA-Association Health Plans (January 5, 2018) available at: <https://www.federalregister.gov/documents/2018/01/05/2017-28103/definition-of-employer-under-section-35-of-erisa-association-health-plans>

² The Financial Services Institute (FSI) is an advocacy association comprised of members from the independent financial services industry, and is the only organization advocating solely on behalf of independent financial advisors and independent financial services firms. Since 2004, through advocacy, education and public awareness, FSI has been working to create a healthier regulatory environment for these members so they can provide affordable, objective financial advice to hard-working Main Street Americans.

registered representatives.³ These financial advisors are self-employed independent contractors, rather than employees of the Independent Broker-Dealers (IBD).⁴

FSI's IBD member firms provide business support to independent financial advisors in addition to supervising their business practices and arranging for the execution and clearing of customer transactions. Independent financial advisors are small-business owners and job creators with strong ties to their communities. These financial advisors provide comprehensive and affordable financial services that help millions of individuals, families, small businesses, associations, organizations, and retirement plans. Their services include financial education, planning, implementation, and investment monitoring. Due to their unique business model, FSI member firms and their affiliated financial advisors are especially well positioned to provide Main Street Americans with the affordable financial advice, products, and services necessary to achieve their investment goals.

FSI members make substantial contributions to our nation's economy. According to Oxford Economics, FSI members nationwide generate \$48.3 billion of economic activity. This activity, in turn, supports 482,100 jobs including direct employees, those employed in the FSI supply chain, and those supported in the broader economy. In addition, FSI members contribute nearly \$6.8 billion annually to federal, state, and local government taxes. FSI members account for approximately 8.4% of the total financial services industry contribution to U.S. economic activity.⁵

Discussion

As one of the only organizations advocating on behalf of independent financial advisors, FSI is pleased to offer its members access to large group benefits through the *CoveredAdvisor* Benefits Plan. *CoveredAdvisor* is designed specifically to deliver much needed insurance products independent financial advisors and their staffs who would otherwise be unable to obtain group premiums discounts. Since 2014, the *CoveredAdvisor* Benefits Plan has been exceptionally well-received across FSI's membership, with enrollment growing each year and millions of dollars in benefits paid to advisors and their families. FSI has over 35,000 independent financial advisor members, 13 percent of whom are currently enrolled. Approximately 15 percent of FSI's total membership (including both IBD firms and financial advisors) is enrolled in *CoveredAdvisor*, which does not currently offer general health insurance. We consistently hear from our members that there is a great need for affordable group health insurance and that they would like to see such coverage add to FSI's *CoveredAdvisor* program. Thus, we expect that number to rise dramatically under the Proposed Rule and to greatly benefit the hundreds of thousands of FSI members and their employees.

FSI strongly supports EBSA's efforts to expand access to employer-sponsored coverage for small businesses through AHPs. Allowing small employers to band together as an association to purchase health coverage allows them to share costs and the administrative burden. Currently, it is prohibitively expensive for small businesses to provide employer-sponsored benefits. The Proposed Rule will help small businesses manage those costs and allow more of them to offer

³ Cerulli Associates, Advisor Headcount 2016, on file with author.

⁴ The use of the term "financial advisor" or "advisor" in this letter is a reference to an individual who is a registered representative of a broker-dealer, an investment adviser representative of a registered investment adviser firm, or a dual registrant. The use of the term "investment adviser" or "advisor" in this letter is a reference to a firm or individual registered with the SEC or state securities division as an investment adviser.

⁵ Oxford Economics for the Financial Services Institute, *The Economic Impact of FSI's Members* (2016).

benefits to their employees through AHPs, benefitting not only small businesses but the workers they employ. As discussed above, because every financial advisor member of FSI is a small business owner, the Proposed Rule could potentially benefit hundreds of thousands of individuals.

Further, allowing AHPs to be treated as large group plans, rather than small group or individual plans, allows them more flexibility as they can aggregate risk over a greater number of people and negotiate better benefits than members would be able to obtain on their own. Groups and associations would also be able to negotiate certain aspects of coverage based on the health, unique needs, or geographic location of their members, further benefitting small businesses and their employees. For example, an association whose members are in the same geographic area could negotiate a better rate for its AHP by agreeing to limit providers to a network in the same geographic area. An AHP could also negotiate a better rate based on the health of the association's population, or add more robust coverage in areas of special need. Thus, the Proposed Rule will provide the employees access to better, and potentially cheaper, benefits than small businesses could afford without an AHP.

We offer *CoveredAdvisor* because our members want access to group benefits. However, we consistently hear from our members that there is a great need for affordable group health insurance. The Proposed Rule would make it easier and more cost effective for associations like FSI to offer AHPs as a substantial benefit to our members.

Conclusion

We are committed to constructive engagement in the regulatory process and welcome the opportunity to work with EBSA on this and other important regulatory efforts.

Thank you for considering FSI's comments. Should you have any questions, please contact me at (202) 803-6061.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. T. Bellaire". The signature is fluid and cursive, with a large initial "D" and "T" and a distinct "Bellaire" ending.

David T. Bellaire, Esq.
Executive Vice President & General Counsel