

December 13, 2022

Amy DeBisschop
Division of Regulations, Legislation, and Interpretation, Wage and Hour Division (WHD)
U. S. Department of Labor
200 Constitution Avenue, NW, Room S-3502
Washington, DC 20210

Re: Regulatory Information Number (RIN) 1235-AA43

Dear Ms. DeBisschop,

We, the undersigned trade associations, appreciate the opportunity to comment on the U.S. Department of Labor (Department) proposed rule on employee or independent contractor classification under the Fair Labor Standards Act.

Our organizations are the leading trade associations in the financial services sector. Our members provide needed advice and services, often provided by independent financial professionals, to millions of Americans, helping them achieve their financial goals.

Licensed financial professionals have a diverse array of work arrangements to choose from when serving their local communities. Surveys have shown that satisfaction rates within our industry among those choosing to operate as independent contractors is as high as 95%.¹ Regulations that alter these work arrangements would create significant economic disruption to the small businesses and consumers benefiting from these independent work arrangements.

A recent study published by NERA Economic Consulting examined the role of independent contracting in the financial services sector.² It finds that public data understates the extent and significance of independent contracting in our sector.

Specifically, NERA found the following:

- More than half a million people work as independent contractors in the financial services industry and occupations, accounting for at least one of every seven insurance agents, financial advisors and securities agents.
- Approximately 130,000 financial advisory and insurance brokerage firms owned and operated by independent contractors employ approximately 330,000 people.
- Approximately 54,000 new businesses and 174,000 new jobs were created by independent contractors in the financial services sector between 2015-2019.

¹ National Association of Insurance and Financial Advisors (NAIFA) Member Survey (2021).

² Eisenach, Jeffrey A, Newton, Elizabeth, Kulick, Robert, *The Role of Independent Contractors in the Finance and Insurance Sectors*, NERA Economic Consulting (November 2022), available at <https://www.nera.com/publications/archive/case-project-experience/the-role-of-independent-contractors-in-the-finance-and-insurance.html>.

- Approximately 27% or \$47 billion of the economic output from the financial advisory and insurance brokerage industries was generated by independent contractor-operated financial advisors and insurance agencies.

NERA also found that those operating independently in our industry value independence, flexibility, and the opportunity to build a business and generate wealth. Importantly, the option to offer independent contracting opportunities helps to expand the availability of financial advice and related services to middle-income households.

Our primary concern is that this proposed regulation will result in fewer independent contracting opportunities within the financial services sector and makes licensed financial professionals' worse off, reduces financial literacy rates, and harms working Americans' ability to accumulate wealth and save for retirement.

Consequently, we encourage the Department to ensure its final rule provides sufficient clarity and is carefully tailored to avoid hurting those who benefit from the opportunity of working as and with independent financial professionals.

Sincerely,

American Property Casualty Insurance Association

American Securities Association

Council of Insurance Agents and Brokers

Finseca

Independent Insurance Agents and Brokers of America

Institute for Portfolio Alternatives

Insured Retirement Institute

International DI Society

National Alliance of Life Companies

National Association for Fixed Annuities

National Association of Health Underwriters

National Association of Insurance and Financial Advisors

National Association of Professional Insurance Agents