

June 10, 2020

To: SVIA Board of Directors

Re: Action Items from June 9th Board Call

From: Gina Mitchell

SVIA's Board of Directors held a virtual meeting with Zoom from 9 to 12:30 p.m. EST on June 9.

The following Board members participated in the call: LeAnn Bickel, Bradie Barr, David Berg, Cindy Cristello, Nick Gage, Shane Johnston, Steve Kolocotronis, Bob Madore, Luke Robustelli, Patricia Selim, Russell Smith, Kostas Sophias and Keith Watson. Gary Ward was unable to participate. Prudential's Lacey Lockhart, JPMorgan Chase's Tashil Fakir, Invesco's Mike Leonburger and SVIA's Zach Gieske and Gina Mitchell participated in the meeting.

Rozo Amicus Brief. Sidley Austin's Mark Blocker outlined the issues raised by the 8th Circuit decision on Rozo vs. Principal to explain why the Association should file a brief supporting Principal before the Supreme Court. The brief would explain broadly why this is such an important issue for the stable value industry. He stressed that the Association was uniquely situated to make the Court aware that the Rozo decision impacts almost 10% of defined contribution assets and provided a much desired principal preservation vehicle that is relied upon those close to retirement as well as in retirement. An amicus brief from SVIA would also inform the U.S. Attorney General and the Department of Labor who may also weigh in on this issue and support the Principal position before the Supreme Court. Further, the brief would inform all policymakers about stable value and the Rozo issues.

Blocker noted that the Rozo decision went beyond the compensation issue of general accounts' setting their compensation. SVIA's surveys report that general account assets comprise over 40% of stable value assets. The Rozo decision could also impact pooled stable value products (additional 19% of stable value assets) due to its emphasis on exit provisions contained in these products (e.g. the 12-month put). The decision's focus on exit provisions could open a new potential area of litigation for stable value. He concluded that Rozo's imposition of fiduciary duty did not make sense since plan participants transactions are uninhibited, and they transact at contract value.

Blocker noted that a legislative solution would be the best of all worlds to clarify that rate setting in the general account was not a fiduciary act. However, such action was highly unlikely to happen in the near term, which he said was why Principal was raising the issue to the Supreme Court. Further, the tension/ambiguity between the Rozo decision (8th Circuit) and Great West decision (10th Circuit) did not permit the courts to sort this out.

Lastly, Blocker offered to provide any additional information or answer any questions the Board may have as they considered this issue. Mark Blocker can be reached at (Office) 312 853 6097 or (Cell) 847 571 4114 or by email at mblocker@sidley.com.

It was also reported that three organizations were considering filing amicus briefs before the Supreme Court in support of Principal. They are the American Council of Life Insurance, the American Benefits Council, and the U.S. Chamber of Commerce.

Lastly, the first stage of the amicus brief process, which explains why the Supreme Court should hear the case, is estimated to cost between \$15,000 and \$25,000. The process is expected to have two stages, the second of which would detail why the Rozo decision should be reversed and, importantly, would have a similar cost.

Vote Needed on Rozo Amicus Brief Before June 19th. *The members of the Board of Directors have been asked to vote as to whether the Association should file an amicus brief in support of Rozo. This is the first time a stable value issue would be considered by the Supreme Court and the first time the Association has been asked to undertake such an effort. All votes are needed before Friday, June 19th.*

Please be reminded that one Board member has abstained from this vote, which is required under the Board's conflict of interest policy.

Approvals. The Board reviewed and unanimously approved SVIA's financial statements for 2019, SVIA's federal tax returns (990s) for 2019, May 22 action items and potential meeting dates for 2021-2022. The Board voted to potentially hold a Spring Seminar in 2021 virtually depending upon the experience with the Fall Forum. The Board ruled out a physical Spring Seminar meeting in 2021 because of timing (SVIA would have to go to contract by the third quarter of 2020) and the continued uncertainty of the pandemic.

Promoting Stable Value Externally. The Board emphasized that SVIA will continue to make promoting stable value a priority. This will include exploring additional opportunities such as webinars and partnerships to demonstrate the value proposition of stable value.

It was reported that SVIA had issued a press release on the value proposition of stable value before Memorial Day, which received several local news website pick-ups of the release and related materials in their entirety. Further, these materials were made available to the membership and the public (SVIA website). Many of the members have used the value proposition in their company communications.

Learning from that approach, SVIA sent targeted emails to trade publications. SVIA married the \$49.7 billion increase to stable value from the first quarter of the 2020 survey with the stable value proposition. To date, 401(k)Wire ran a positive story last week. PlanSponsor.com interviewed Patricia Selim, Vanguard; Nick Gage, Galliard; and Warren Howe, MetLife on how stable value is used by plan participants on June 8th. It is expected that the story will run next week. Other efforts are ongoing.

Serving SVIA Membership. SVIA polled the membership on travel, the Fall Forum, and topics to assist the Association in being more responsive to the membership as well as the limitations imposed upon the membership by the pandemic. The survey that was conducted from June 3 through June 8 for reporting purposes to the Board, had 37 responses or a 55% response rate from voting members, which represent 67 firms.

Not surprising, no one reported that travel restrictions were lifted. However, response regarding the Fall Forum was cautionary at best. 17 respondents reported that travel restrictions were uncertain. 20 respondents reported that travel/attendance would be prohibited for the Fall Forum. Only respondents who were uncertain about their companies' policies at this time indicated they would be unable to share their travel restrictions with the Association.

The survey found that most respondents (31) indicated they could participate in the Fall Forum if held virtually, which left six who indicated they would not participate.

Survey respondents provided a plethora of topics for webinars that could occur in the meantime as well as for the Fall Forum. A summary of the survey and issues is attached for your review and convenience. The Board agreed to review the topics for possible webinars for the membership and other interested parties as well as for the Fall Forum.

Fall Forum. Based on the survey, the Board decided that SVIA should exercise the force majeure clause in the contract with the Fairmont and hold the forum virtually. The Board tasked Association staff to explore the virtual platforms and their costs and make a recommendation for the Board's consideration for webinars and/or virtual meetings.

Communications and Education. Vanguard's Patricia Selim reported the next project of the committee was a white paper promoting the role of stable value as part of a retirement income solution. Selim shared that while all supported this project, the committee was somewhat stalled when it came to drafting and writing the report. Nick Gage suggested that the Association discuss partnering with DCIIA to move this project forward.

Selim noted that Stable Times was based on SVIA meetings. The cancellation of the Spring Seminar did away with the first issue of Stable Times. Cindy Cristello suggested that the Committee highlight all the Associations work during this time for Stable Times. Kostas Sophias suggested also including companies' work during the pandemic, which the Board supported. Bradie Barr also offered work that the Transamerica Stable Value Solutions team had done on low and negative rates for consideration in Stable Times as well as a presentation for the Fall Forum or webinar.

Zach Gieske reported on the website redesign, which had been slowed because of the pandemic. He provided a visual demonstration of the new website noting that two steps remained before the website was final. The Website working group needed to review the design aspect of the site for a final time, which he anticipated would occur in July. Additionally, the website had been mined to find articles and data that may need to be updated for the Committee's consideration. Gieske estimated that the website should be up and running this fall.

Prudential's Lacey Lockward reported that they were creating an animated piece on the value proposition of stable value for all to promote stable value. She anticipated that the piece would be available in August.

Data and Communication. PIMCO's David Berg reported on the committee's work. He noted that the 2019 Survey on Stable Value had been released covering \$808 billion in assets. He highlighted that, as part of the collaboration with Cerulli, some new questions were added that covered stable value's use in target date funds, plans that offer an annuity product, plans that offer a retirement income product, as well as average underlying credit quality. He noted that 51% of individual managed accounts offered a retirement income product.

Berg reported that the first quarter of 2020 stable value characteristics survey had been released. It reported that \$49.7 billion had flowed into stable value. Further, he noted that a quick market survey had been conducted in February on the pandemic for the membership. He reported that some on the

committee had asked for a survey on the CARES Act provisions but felt this information would be difficult to obtain since SVIA survey participants were managers, not recordkeepers.

CARES Act. The Board discussed members' interest in the CARES Acts on defined contribution plans and stable value specifically. TRowePrice's Bob Madore noted that TRowePrice had been tracking the provisions of the CARES Act on its platform and would explore presenting this data to the membership. The Board welcomed Bob's proposal and discussed including other recordkeepers as well as making this presentation through a webinar in the summer. The Board also discussed looking at the inflows to stable value during the pandemic to see if they remained in stable value or were reallocated as the economy reopens and recovers.

Diversity. JPMorgan Chase's Tashil Fakir reported that SVIA's efforts to welcome new and diverse members to SVIA at its conference were successful. He stressed that moving to a virtual format will provide an opportunity for the SVIA to reach new attendees for the Fall Forum or other SVIA-generated content. He based this observation on the bank's experience with virtual meetings, which he said had increased participation in multiples since the cost of travel and time out of the office has been removed.

Government Relations. Transamerica's Bradie Barr highlighted the Committee's tracking spreadsheet for the Board to see the breath as well as get updates on the Committee's activities. She reported on the SECURE Act, CARES Act, efforts on commingled funds, Roza vs. Principal as well as the opportunity to revisit stable value as a QDIA given the pandemic.

Finance. Invesco's LeAnn Bickel reported on the 2019 unqualified opinion audit and 990 federal income tax filing. Despite the cancellation of the Spring Seminar, Bickel reported that through April, SVIA had collected 57% of revenue, which is dues based. To date, three service firm members have yet to pay their 2020 dues. SVIA's expenses for this same period were 23% of budget.

She noted that SVIA had \$126,000 in deferred registrations from the Spring Seminar that were now a liability. A question was raised if registrants from the Spring Seminar were subject to cancellation penalties if they requested a refund and if rollovers were limited to a year. Bickel responded that all penalties were waived if someone requested a refund for the Spring Seminar since it was cancelled due to the pandemic. Typically, registrations that are rolled over have a year to be applied to a future event. Because of the nature of the pandemic, she reported the Committee would review this as well as pricing for virtual meetings and make a recommendation for the Board's consideration.

Bickel submitted that once the work regarding costs of virtual meetings, webinars and associated registrations has been completed by the Committee and the Board makes its determination on these endeavors, SVIA will restate its policies as guided by the Board as well as the budget for 2020.

Incoming Finance Chair. New York Life's Cindy Cristello who serves on the Finance Committee was nominated to be chair the coming when LeAnn Bickel's term expires at the end of this year. Cristello was unanimously elected to the position and will serve and shadow Bickel for the remainder of the year as the committee incoming chair.

Bylaws and Articles of Incorporation. SVIA's Gina Mitchell updated the Board on the bylaws and articles of incorporation. Because of the pandemic, she asked the Board to consider softening the requirement that SVIA's offices be located in the District of Columbia to in the metropolitan area of the District of Columbia to include the Virginia and Maryland suburbs closest to the District. The Board unanimously

agreed to this modification. The bylaws and articles of incorporation will be brought before the membership for adoption shortly and/or at the next meeting of the Board of Directors.

Board Seats and Election in the Fall. The Board has several seats open for election for the 2021-2023 term. They are listed below. The Board recognized and thanked all for their many contributions and encouraged those who had served one-term to run for a second term.

- David Berg, PIMCO (served one term)
- Le Ann Bickel, Invesco (served two terms)
- Shane Johnston, Morley (served one term)
- Robert Madore, TRowePrice (served two terms)
- Kostas Sophias, JP Morgan Chase (served one term)
- Gary Ward, Prudential (stepping off at year end in second term)
- Sara Smithson, Raytheon, who served as a plan sponsor (resigned due to merger and loss of her position)

Mitchell reminded the Board that all candidates needed to be nominated and that service firm members needed a minimum of three or 10% of voting members making nomination (seven) to become candidates. The nomination process takes place electronically after Labor Day. Typically, the candidates speak at the Fall Forum Board meeting as well as attend the Fall Forum since this provides an additional opportunity to supplement emails and calls with in-person campaigning. The election also occurs electronically following the meeting. With the pandemic, the in-person campaigning will be impacted. Staff will research and make suggestions on how to potentially change this component in this uncertain environment.

Attachments: Rozo vs. Principal
 Draft Amicus Brief
 May 22, 2020 Action Items
 2021-2022 Meeting Dates
 2019 Financial Statements
 2019 990s (not included since only draft is being finalized)
 Survey Report on Travel, Fall Forum, and Issues