Independent Insurance Agents
& Brokers of America, Inc.

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March 16, 2017

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

SUBMITTED VIA www.regulations.gov

Re: Proposed rule to extend the applicability date defining who is a "fiduciary" under the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code of 1986 (Code), and the applicability date of related prohibited transaction exemptions including the Best Interest Contract Exemption (BICE) and amended prohibited transaction exemptions (collectively PTEs) to address questions of law and policy. (RIN 1210-AB79)

To Whom It May Concern:

On behalf of the Independent Insurance Agents and Brokers of America, Inc. (IIABA or Big "I")[1], I would like to offer our comments on the Notice of Proposed Rulemaking (RIN 1210-AB79) issued by the Department of Labor (DOL) proposing to extend for 60 days the applicability date of a rule defining who is a "fiduciary" under ERISA and the Code, and the applicability date of related prohibited transaction exemptions including the BICE to address questions of law and policy. The Big "I" supports delaying implementation of the above referenced rule and the associated exemptions for the reasons noted below.

The final rule, entitled Definition of the Term "Fiduciary" Conflict of Interest Rule - Retirement Investment Advice, was published in the Federal Register on April 8, 2016, became effective on June 7, 2016, and has an applicability date of April 10, 2017. The PTEs also have applicability dates of April 10, 2017, however, full compliance requirements will not be effective until January 1, 2018. The President by Memorandum to the Secretary of Labor, dated February 3, 2017, directed the DOL to update legal and economic analysis of the rule to examine:

[1] The Big "I" is the nation's oldest and largest trade association of independent insurance agents and brokers, and we represent a nationwide network of approximately a quarter of a million agents, brokers, and employees. IIABA represents independent insurance agents and brokers that offer customers a choice of policies from a variety of insurance companies across all lines of insurance—property, casualty, life, health, employee benefit plans and retirement products.

1. Whether the fiduciary rule has harmed or is likely to harm investors due to a reduction in American's access to certain retirement savings offerings, retirement product structures, retirement savings information, or related financial advice.
2. Whether the rule has resulted in dislocations or disruptions within the retirement services industry that may adversely affect investors or retirees.
3. Whether the rule is likely to cause an increase in litigation, and an increase in the prices that investors and retirees must pay to gain access to retirement services.

As such, the DOL proposes a 60-day delay to the applicability date of the rule and the associated exemptions in order to undergo the review directed by the President. However, the Big "I" suggests that a longer delay is needed to complete the necessary analysis. Absent an extension of the applicability date, if the examination prompts the DOL to propose rescinding or revising the rule, affected advisors, including independent insurance agents and brokers, retirement investors, and other stakeholders may face two major changes to the regulatory environment rather than one. This could unnecessarily disrupt the marketplace. The Big "I" is concerned that it is likely to take the DOL longer than 60 days to complete the analysis required by the President's order, it would result in uncertainty, market disruption and investor confusion.

The Big "I" suggests that at least an additional 180 days are needed in order for the DOL to complete its analysis and determine if it is necessary to rescind or revise the rule. In the DOL analysis it is noted that the information on the impacts of the proposed delay, a longer delay, and the actual rule is "uncertain and incomplete." Because there is not a clear understanding of the potential negative impacts of a longer delay, but the DOL also stated in its analysis that "two major changes to the regulatory environment rather than one" are likely to disrupt the marketplace, the Big "I" believes the benefits of a longer delay outweigh the potential risks.

Furthermore, the Big "I" believes that it is necessary that any delay in implementation not only apply to the April 10 implementation date but the future January 1, 2018 implementation date. When the original implementation schedule was announced it was staggered beginning on April 10, 2017 in order for businesses to be able to comply appropriately. The Big "I" asks that the delay apply equally to all future implementation deadlines to minimize uncertainty, market disruption and investor confusion.

Finally, the Big "I" also agrees with the DOL that there is good cause for this rule to go into immediate effect and as such should be effective on the day the rule is finalized. Given that the first implementation date of the rule is less than 30 days away, if the final rule is not given immediate effect it is likely to result in further uncertainty and investor confusion.

We would like to thank you for the opportunity to express the views of independent insurance agencies on this issue. The Big "I" appreciates the effort that has gone into this proposal. Please contact Jennifer Webb at Jennifer.Webb@iiaba.net or (202) 863-7000 should you wish to have additional information regarding our comments.

Sincerely,

Charles E. Symington, Jr.
Senior Vice President, External & Government Affairs