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March 16, 2017

The Office of Regulations and Interpretations
Employee Benefits Security Administration
Attn: Proposed Definition of Fiduciary Regulation
U.S. Department of Labor
200 Constitution Avenue, N.W. Room N-5655
Washington, DC 20210

Re: RIN 1210-AB79

Ladies and Gentlemen:

We write regarding the Department of Labor's ("Department") proposed delay in the applicability date of the final rule (the "Rule") under the Employee Retirement Income Security Act of 1974, as amended ("ERISA") that redefines the term "fiduciary" under section 3(21) of ERISA and section 4975(e) of the Internal Revenue Code of 1986, as amended (the "Code") and in the applicability dates of the Rule's corresponding exemptions. We sincerely hope that our comments assist you in determining that a delay is in the best interest of retirement investors.

Smith, Moore & Co. firmly believes that a delay of the Rule is in the best interests of our retirement clients in that the additional time will allow us to ensure our clients understand how they will be affected by the Rule, and provide those affected clients with the time necessary to prepare for the changes they will surely experience as a result of the Rule.

Notwithstanding the significant time and resources we have expended in our efforts to be ready to comply with the Rule – revising how our business runs, changing our policies and procedures necessary to make the enormous shift required by the new rules, drafting client correspondence and explanations of revised product offerings necessitated by the rule, and creating compliance and surveillance programs amongst a host of other requirements necessary action – additional time is necessary in light of, among other reasons, the Rule's uncertainty resulting from the review called for in the President's Memorandum of February 3, 2017.

In light of that uncertainty, we have been unable to completely communicate to our retirement clients all of the ways in which the Rule may or may not affect the products and services available to them. **We strongly believe that clients will be bewildered, confused and uncertain if changes are announced that then need to be revisited in light of the President's memorandum.** To be sure, we are concerned that if the applicability date is not delayed, there could be extreme confusion as retirement investors receive certain information regarding changes that go into effect in April, which are then immediately changed as the Rule and/or the applicable exemptions are modified in connection with the Department's report to the President. This is in addition to the fact that the Department issued a second set of Frequently Asked Questions just 2 months ago, and additional time is required to internalize and understand how our firm and our clients will be affected by that guidance.

For these reasons, we strongly urge the Department to avoid disrupting the retirement market in this manner. The Rule should not be applicable until the questions raised by the President are addressed and the new Secretary of Labor determines whether rescission, revisions, or some other modification to the Rule are required or appropriate. Thus, it is imperative that the Department delay the applicability date of the Rule because no retirement investor's interest will be served if the Rule becomes effective prior to clients having certainty on the products and services that may be provided under the Rule.

In conclusion, as a small firm that employs 80 financial advisors and support staff, we have and will continue to endeavor to act in our clients' best interests for all relationships, including both qualified and non-qualified accounts. And while Smith Moore intends to comply with the Rule, the reality is that the existing uncertainty presents an inordinate amount of challenge, cost and burden such that we do not feel we have had ample time to fully digest, prepare and execute at this point in time.

We urge you to grant a delay of at least 60 days as soon as possible, with such delay being effective on the date it is published in the Federal Register, and request that the delay applies to all requirements of the Rule and associated prohibited transaction exemptions. Thank you for your consideration of this request, and the opportunity to comment on this important issue.

Sincerely,

James Deutsch
President & CEO
Smith, Moore & Co.