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Sent via e-mail to [EBSA.FiduciaryRuleExamination@dol.gov](mailto:EBSA.FiduciaryRuleExamination@dol.gov)

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

RE: Comments in Support of 60-Day Delay in Applicability Date of Fiduciary Rule  
Employee Benefits Security Administration, RIN 1210-AB79

Ladies and Gentlemen:

Nassau Reinsurance Group Holdings, L.P. (Nassau Re) strongly supports the U.S. Department of Labor's proposal to delay by at least sixty days the applicability date of the final rule titled "Definition of the Term 'Fiduciary;' Conflict of Interest Rule--Retirement Advice" and the related exemptions that the Department published in the *Federal Register* of April 8, 2016 ("Rule"). A delay of no less than sixty days is essential to permit the Department of Labor to carry out effectively the President's direction in his February 3, 2017 memorandum to the Secretary of Labor. Otherwise, the Rule might cause (1) unnecessary and unwarranted disruption of and expenditures by businesses that are newly subject to the Rule but might not be the subject of the same sort of regulation under a revised proposal, and (2) consumer confusion resulting from a partial or full implementation of the Rule's provisions in the event the Rule is subsequently revised.

Phoenix Life Insurance Company and PHL Variable Insurance Company, operating subsidiaries of Nassau Re, provide life insurance and annuity products to both affluent and middle market consumers. The insurance products are distributed through independent agents and financial advisors with sales support from Saybrus Partners Inc., another Nassau Re company. The current business activities of Phoenix Life Insurance Company, PHL Variable Life Insurance Company, and Saybrus Partners, Inc., are directly affected by the Rule.

#### Impact of the President's Memorandum

On February 3, 2017, President Trump issued a memorandum to the Secretary of Labor titled "Fiduciary Duty Rule" (82 *Fed. Reg.* 9675). This memorandum cited the priority of the Trump Administration "to empower Americans to make their own financial decisions, to facilitate

their ability to save for retirement and build the individual wealth necessary to afford typical lifetime expenses, such as buying a home and paying for college, and to withstand unexpected financial emergencies." The President directed the Secretary of Labor to examine the Rule to determine whether it may adversely affect the ability of Americans to gain access to retirement information and financial advice, and to prepare an updated economic and legal analysis of the Rule that addresses mandated considerations. The President further directed that, should the Secretary of Labor determine that the Rule would create any of the specified effects or be inconsistent with the President's priority set forth above, a new rule be proposed rescinding or revising the Rule, as appropriate.

#### Impact of Uncertainty Regarding the Rule on Business and Consumers: Need for Delay

We believe that the Rule should be delayed beyond the April 10, 2017 applicability date. Additional economic and legal analysis directed by the President could result in the revision or rescission of the Rule. It would be disruptive and create additional confusion to consumers, our businesses and to the market generally to allow any portion of the Rule to become applicable on April 10, 2017 in light of the potential for revision or rescission.

We further note that the Proposed Best Interest Contract Exemption for Insurance Intermediaries (82 FR 7336) remains pending. This proposed exemption was issued in recognition of a regulatory gap in the Rule that would have effectively eliminated a popular form of insurance distribution in the marketplace in the form of independent marketing organizations. Should the Rule become effective on April 10, 2017 without finalization of this exemption and a reasonable amount of time for affected entities to comply with the exemption, insurance product distribution in the tax qualified market will be materially impacted, and, consequently, consumers will have reduced options in purchasing insurance and retirement products. A delay in the Rule of more than sixty days is required to provide entities seeking to rely on the final class exemption time to ensure compliance with its conditions. Insurer and insurance intermediary operational and compliance preparation for the Rule and for the final class exemption has involved significant expenses that may prove to be unnecessary or subject to duplication.

Finally, the Rule must be delayed to allow time for proper and careful communication from regulators and industry participants to consumers. While we, like most other insurers, have prepared for the Rule's applicability on April 10, 2017, we have not been able to effectively complete final preparations (such as communicating with customers and distributors about the Rule and related impacts) given the immense uncertainty about the Rule since the Presidential Memorandum was issued in January and the events which followed, including the existing regulatory gap for certain insurance intermediaries. The Department's mission to assure the security of retirement benefits through regulation that, among other things, educates retirement investors is not served by the consumer confusion that will be perpetuated by (1) partial implementation of the Rule on April 10, 2017; and (2) implementation of the Rule after April 10, 2017 without full consideration of the directives in the Presidential Memorandum and adequate time for compliance with any resulting changes.

For the reasons set forth above, Nassau Re respectfully urges the U.S. Department of Labor to publish notice of a delay, for at least sixty days, of all provisions of the Rule that would otherwise become applicable on April 10, 2017.

Sincerely,

A handwritten signature in black ink, appearing to read "Kostas Cheliotis". The signature is fluid and cursive, with the first name "Kostas" being more prominent than the last name "Cheliotis".

Kostas Cheliotis  
General Counsel and Chief Operating Officer  
Nassau Reinsurance Group Holdings, L.P.