



SUBMITTED ELECTRONICALLY

March 17, 2017

Office of Regulations and Interpretations
Employee Benefits Security Administration
Room N-5655
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, D.C. 20210

Attention: Fiduciary Rule Examination

Re: *Extension of Applicability Date (RIN 1210-AB79)*

Ladies and Gentlemen:

Fidelity Investments (“Fidelity”)¹ strongly supports the proposal by the Department of Labor (the “Department”) to delay the applicability date of the regulation defining investment advice under section 3(21)(A)(ii) of the Employee Retirement Income Security Act of 1974 and section 4975(e)(3)(B) of the Internal Revenue Code (the “Fiduciary Rule” or the “Rule”).² While Fidelity welcomes the Department’s examination of the Rule required by the President’s February 3, 2017 Memorandum,³ it makes no sense for Fidelity to implement changes to our products and services that likely will need to be further modified if the Fiduciary Rule is rescinded or revised. These types of serial changes would unnecessarily confuse and burden our plan sponsors, individual retirement customers and intermediary clients. While the temporary enforcement policy announced in Field Assistance Bulletin No. 2017-01 alleviates some of the compliance concerns and is appreciated, a formal delay of the rule is the only way to provide the certainty that service providers and their customers need.

Additionally, Fidelity urges the Department to ensure that whatever delay it may impose preserves the nine-month “transitional period” for implementing the best interest contract (“BIC”) exemption. As the Department is aware, the BIC exemption includes a transitional period, currently between April 10, 2017 and January 1, 2018, during which service providers must

¹ Fidelity was founded in 1946 and is one of the world’s largest providers of financial services.

² *Definition of the Term “Fiduciary”; Conflict of Interest Rule – Retirement Investment Advice* 81 FR 20946 (April 8, 2016). Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Fiduciary Rule.

³ 82 FR 9675 (February 7, 2017).

commit to act in the best interest of their customers and make certain disclosures, but may continue working towards implementation of additional requirements under the BIC exemption. This includes additional disclosure requirements, the requirement to establish a governance process for managing conflicts of interest, and the requirement to create a publicly available website that reflects detailed information about their products and services. The transitional period reflects the Department's understanding that these additional requirements are onerous, and that service providers therefore will need an additional nine months for their implementation. Given the current uncertainty about whether these additional requirements will become applicable, service providers should not be forced to proceed with their development and implementation. Accordingly, the end date of the transition period should also be extended.

Finally, in its proposal, the Department "invites comments on whether it should delay applicability of all, or only part, of the final rule's provisions and exemption conditions." Allowing only portions of the Rule to become applicable is tantamount to a modification of the Rule and firms cannot possibly comply by April 10, 2017 with a version of the Rule that has not yet been defined. In addition, the Department has been asked to reexamine the Rule in its entirety, meaning that it could modify or rescind any part of the Rule. Because it necessarily makes sense to delay any part of the Rule that may be modified or rescinded, the Department should not allow any part of the Rule to become applicable on April 10, 2017.

Sincerely,

A handwritten signature in black ink, appearing to read "Ralph C. Derbyshire". The signature is fluid and cursive, with a long horizontal stroke at the end.

Ralph C. Derbyshire