THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
SCOTT M. STRINGER

March 15, 2017

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

Attn: Fiduciary Rule Examination

Re: RIN 1210-AB79: Proposed Rule Extending the Applicability Date Defining Fiduciary of an Employee Benefit Plan under the Employee Retirement Income Security Act of 1974 (ERISA)

I appreciate the opportunity to comment on the Department of Labor's (DOL) proposed rule to extend for 60 days the applicability date defining who is a fiduciary under ERISA. The delay contemplated by the proposed rule is unnecessary and would deny retirement savers the immediate benefit of crucial investor protections designed to ensure that financial advisors put their client's interests above their own.

The fiduciary rule, as finalized by DOL on April 8, 2016, promises to have a profound effect on retirement savings market and the pocket books of New Yorkers who I represent. Approximately 58 percent of private sector workers in New York City are without access to a pension, 401(k), or retirement plan through their employer.[1] Many of these workers rely on financial advisors to help safeguard and grow their hard-won retirement savings. The fiduciary rule is designed to protect these savers from conflicts of interest and ensure advisors offer their clients objective and unbiased advice. A delay in the implementation of the fiduciary rule will continue to allow conflicts of interest, high fees, and non-objective investment advice to deprive American workers of billions of dollars yearly from their retirement savings.[2]

A delay in the rule's implementation, particularly with an eye toward modifying the rule's provisions or reversing its protections as suggested by President Trump's February 3, 2017 Memorandum on Fiduciary Duty Rule, would have negative consequences for many savers.[3]

[1] https://comptroller.nyc.gov/reports/the-new-york-city-nest-egg-a-plan-for-addressing-retirement-security-in-new-york-city/
[2] https://obamawhitehouse.archives.gov/sites/default/files/docs/cea_coi_report_final.pdf
[3] https://www.whitehouse.gov/the-press-office/2017/02/03/presidential-memorandum-fiduciary-duty-rule

MUNICIPAL BUILDING • 1 CENTRE STREET, 5TH FLOOR • NEW YORK, NY 10007
PHONE: (212) 669-3500 • @SCOTTMSTRINGER
WWW.COMPTROLLER.NYC.GOV

A report issued by the President's Council on Economic Advisers conservatively estimates that such conflicted advice consistently leads to lower investment returns—approximately 1 percentage point lower each year. While seemingly marginal, the cumulative toll of losing just 1 percent of returns annually could reduce a family's savings by more than a quarter over a lifetime of savings. Collectively, it adds up to $17 billion in lost returns every year in Americans' Individual Retirement Accounts (IRAs) alone.[4]

The fiduciary rule is the result of years of meticulous research and economic analysis. In devising the rule, DOL drew on thousands of public comments, market research, academic papers, and economic reports, including a 2015 analysis by my office *Safeguarding Our Savings: Protecting New Yorkers Through the Fiduciary Standard*.[5] The rule's careful construction ensures that the retirement advice marketplace puts investors first without unduly harming advisors.

Furthermore, the proposed delay in the applicability date is unnecessary. During the multi-year process that led to the adoption of the April 8, 2016 final rule, financial advisors had significant opportunity to weigh in on the rule through the notice-and-comment period—in fact, many of them supported adoption of the rule.[6] In addition, DOL provided a full year for firms to come into compliance with the final rule. There is no need for further delay.

As the fiduciary to New York City's five municipal pension funds, I am charged with managing over $160 billion in assets on behalf of 700,000 active and retired City employees. The responsibility to safeguard the financial futures of those New Yorkers who have invested their trust in our pension funds is the single principle that motivates every investment decision my office makes. Every saver should be confident that those managing their savings have their best interest at heart. Allowing the fiduciary rule to go into effect in its current form and as originally scheduled will help grant millions of Americans the financial freedom to enjoy a comfortable, secure retirement.

Sincerely,

Scott M. Stringer
New York City Comptroller

---

[4] https://obamawhitehouse.archives.gov/sites/default/files/docs/cea_coi_report_final.pdf

[5] http://comptroller.nyc.gov/wp-content/uploads/documents/Safeguarding_Our_Savings.pdf

[6] For example, see: https://www.regulations.gov/document?D=EBSA-2014-0016-0289, https://www.regulations.gov/document?D=EBSA-2014-0016-0116, and https://www.regulations.gov/document?D=EBSA-2014-0016-0207