National Taxpayers Union

March 16, 2017

The Honorable Edward Hugler
Acting Secretary
United States Department of Labor
200 Constitution Avenue, NW
Washington, D.C. 20210

Acting Secretary Hugler,

Founded in 1969, National Taxpayers Union (NTU) is the oldest taxpayer advocacy organization in the country. As a nonpartisan nonprofit, NTU has been an influential voice in shaping state and federal fiscal and regulatory policy for nearly 50 years. Accordingly, NTU is writing today to urge the United States Department of Labor (DOL) to extend by 60 days the effective date of its ill-considered Conflict of Interest Rule-Retirement Investment Advice, 81 Fed. Reg. 20946 (April 8, 2016) (Fiduciary Rule). Unless changed, DOL's Fiduciary Rule will go into effect on April 10, 2017.

On February 3, 2017, President Trump issued a Presidential Memorandum directing DOL to examine the Fiduciary Rule "to determine whether it may adversely affect the ability of Americans to gain access to retirement information and financial advice." In addition, the Memorandum directs DOL to perform "updated economic and legal analysis" as to whether the Fiduciary Rule, as currently proposed, "has harmed or is likely to harm investors" through decreased access to products or information; whether the rule would lead to "dislocations or disruptions within the retirement services industry that may adversely affect investors or retirees"; and whether it would lead to an increase in litigation, which could raise prices for investors and retirees. In order to accommodate this directive from the White House, DOL should delay by 60 days the effective date of Fiduciary Rule.

The history of DOL's Fiduciary Rule has been marred by starts and stops. Various iterations of the Rule have been proposed and subsequently withdrawn until the final Rule was adopted in April of last year. A delay in implementation of the Fiduciary Rule would give DOL the requisite time to perform the legal and economic analysis mandated by President Trump while also giving financial advisors breathing room from the impending effective date of the Rule.

As currently drafted, the Fiduciary Rule is unworkable and far too costly. By DOL's conservative estimates, the Rule could cost up to $31.5 billion to comply with and require nearly 60,000 hours of paperwork. This alone is incredibly burdensome, especially for smaller and independent financial advisory firms, yet there are other significant problems with the Rule. By raising the legal standard of care for financial advisers, the Rule would also limit investment advice especially for Americans with lower account balances. There are numerous news stories about the rise of so-called "robo advisers" that provide one-size fits all investment advice to

American investors and retirees. This problem will be exacerbated if the proposed Rule stands, and the consequences for taxpayers will be significant. If this rule creates obstacles to high-quality, individualized investment advice, more Americans could be deterred from saving and investing for retirement, especially in tax-advantaged vehicles. As a result, they could become more heavily reliant on already-strained government-funded retirement programs.

NTU remains skeptical that a heightened legal standard for investment advisers is necessary, but at the very least, it would be prudent for DOL to delay by 60 days the implementation of the proposed Fiduciary Rule in order to comply with the President's Memorandum. Accordingly, we urge DOL to delay implementation of the Rule and to consider paring it back or withdrawing it entirely.

Sincerely,

Clark Packard
Counsel

25 Massachusetts Avenue NW, Suite 140 * Washington, DC 20001 * Phone: (703) 683-5700 * Fax: (703) 683-5722 * www.ntu.org