LADENBURG THALMANN

ESTABLISHED 1876

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by email to **EBSA.FiduciaryRuleExamination@dol.gov**

Employee Benefits Security Administration
Office of Exemption Determinations
U.S. Department of Labor
200 Constitution Avenue, NW
Suite 400
Washington, DC 20210

Re: RIN 1210-AB82: Request for Information Regarding the Fiduciary Rule and Prohibited Transaction Exemptions

Dear Sir or Madam:

I write on behalf of Ladenburg Thalmann & Co. Inc. (LTCI) in response to the July 6, 2017 request for information (RFI) seeking public input on the advisability of extending the January 1, 2018 applicability date for certain provisions in the Fiduciary Rule and its accompanying exemptions, including the Best Interest Contract Exemption and Prohibited Transaction Exemption 84-24.

LTCI supports a universal standard of care applicable to all professionals providing personalized investment advice to retail clients.

However, we cannot support the Fiduciary Rule and accompanying exemptions as currently written. As written, the Fiduciary Rule will reduce access to retirement products and financial advice, disrupt retirement services, adversely affect investors, increase litigation, and increase prices for access to retirement services.

LTCI supports a delay in the January 1, 2018 applicability date to enable the Department to conduct a detailed review of the Fiduciary Rule, its negative impact on investors' access to retirement planning services, and explore approaches to alleviate these issues.

We also request that the comment period for the RFI be extended to enable industry participants time to completely respond to the important questions posed.

1. Existing regulatory structures protect investors. The sale of retirement savings is already heavily regulated. LTCI and our financial advisors are subject to comprehensive regulation under federal securities laws, rules, and regulations. The SEC regulates LTCI through its antifraud authority in the Securities Act of 1933 and the Securities Exchange Act of 1934, and related rules. LTCI and our financial advisors are also subject to FINRA rules, oversight, and frequent examinations. FINRA rules require LTCI to commit to observe just and equitable principles of trade and high standards of commercial honor. In addition, LTCI is obliged to disclose certain material conflicts of interest to our customers; and federal securities laws and FINRA rules strictly prohibit LTCI from participating in certain transactions that may present acute potential conflicts of interest. These existing mechanisms protect our clients planning for retirement and are in place if the DOL choose to further delay the January 1, 2018 compliance deadline.

Investors are further protected by the application of the Impartial Conduct Standards. During the transition period from June 9, 2017, through January 1, 2018, LTCI and our financial advisors are relying on the Best Interest Contract Exemption (BICE) and must adhere to the Fiduciary Rule's Impartial Conduct Standards. The Impartial Conduct Standards require LTCI and our advisors to provide advice in the retirement investors' best interest, charge no more than reasonable compensation for their services and to avoid misleading statements. Thus, investors are already benefitting from stronger protections since the Fiduciary Rule became partly applicable on June 9, 2017. The DOL acknowledged this in the supporting release to the final rule extending the applicability date, when it wrote that the Impartial Conduct Standards help "ensure that investment recommendations are not driven by adviser conflicts, but by the best interest of the retirement investor" and that much of harm the DOL claims is happening to investors "could be avoided through the imposition of fiduciary status and adherence to basic fiduciary norms, particularly including the Impartial Conduct Standards." As a result, the potential for harm to investors is greatly reduced.

2. More time is required for new products. The DOL has discussed new products as a means for firms to comply with the fiduciary rule at a lower cost to firms and investors. However, these new products take time to develop and become available, and will not be available in time for the January 1 applicability date. Once they are fully developed, LTCI will need to integrate trading, surveillance, commission and other systems to support their use. Our financial advisors will also need to be trained on the use of the new shares and the new corresponding policies and procedures. Our supervision staff will need to be trained on proper supervision of the sales. All of this training will take time.

3. Failure to delay will cause client confusion. A delay during the DOL's review will serve to minimize market disruptions caused by the changing

regulatory structure. LTCI is reviewing investment products and compensation structures and planning revisions designed to make it easier to comply with the Fiduciary Rule. LTCI continues these efforts to comply with the Fiduciary Rule and they will need to be finalized and communicated to your financial advisors and clients prior to the January 1 deadline. A delay will allow LTCI to avoid communicating one set of compliance policies, account minimums and other changes to financial advisors and investors that will have to be revised as a result of the possible changes to the final rule. We are concerned that clients will be confused by correspondence announcing changes to their investment products and business relationship (if the Rule becomes applicable), followed by correspondence announcing additional changes being made for yet another new regulatory scheme (if the Rule is rescinded or revised).

4. An additional extension of the comment period for the RFI is needed to ensure meaningful input from stakeholders. The 30-day comment period will significantly impact stakeholders' ability to gather meaningful data that is responsive to the remaining questions in the RFI. The DOL should extend the comment period for questions 2 through 18 to 60 days so that commenters are afforded sufficient time to gather evidence and respond to the RFI in a meaningful way.

In conclusion, existing regulatory structures and the June 9, 2017 application of the Impartial Conduct Standards provide substantial investor protections. The full application of the current Fiduciary Rule will greatly increase costs for LTCI and financial advisors and will result in reduced access to retirement planning services. It is essential that the DOL consider whether new products can eliminate or reduce negative consequences. LTCI and our financial advisors will need to communicate with our clients well in advance of the deadline; thus, a significant delay can avoid investor confusion by eliminating the need for LTCI and our financial advisors to send multiple communications reflecting changing requirements. We submit that the DOL should delay full implementation of the Fiduciary Rule until April 10, 2019 to provide the industry a full 36 months to fully comply. The DOL should extend the comment period for questions 2 through 18 of the RFI to allow firms and other interested parties sufficient time to gather useful data to craft a meaningful response to the request.

Thank you for considering our comments. Should you have any questions, please contact me at 212-409-2544.

Very truly yours,

Joseph Giovanniello, Jr.