TRANSAMERICA®

1801 California St, STE 5200
Denver, CO 80202

July 21, 2017

Office of Exemption Determinations
Employee Benefits Security Administration
Attn: D-11933
Suite 400
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

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

Ladies and Gentlemen:

The Transamerica companies ("Transamerica") are pleased to provide comments on the "advisability of extending the January 1, 2018, applicability date of certain provisions in the Best Interest Contract Exemption, the Class Exemption for Principal Transactions in Certain Assets Between Investment Advice Fiduciaries and Employee Benefit Plans and IRAs, and Prohibited Transaction Exemption 84-24." This submission is made pursuant to the Request for Information Regarding the Fiduciary Rule and Prohibited Transaction Exemptions ("RFI") published in the Federal Register on July 6, 2017.

<u>**Summary**</u>

As discussed below, we urge the Department of Labor (the "Department") to delay the January 1, 2018 applicability date for the exemptions referenced above (the "January 1 applicability date") for a meaningful period following promulgation of changes to the Fiduciary Rule pursuant to the RFI. Failure to extend the January 1 applicability date will result in: (a) companies such as Transamerica continuing to incur costs and business model changes to prepare for and implement a regulatory regime that might differ materially from the regime that results from the Rule in effect today; and (b) continued disruption, increased price and/or loss of services and loss of choice for retirement savers.

To avoid further harm to consumers and disruption to business, Transamerica further urges the Department to announce a delay as soon as possible, and in any event no later than September 1, 2017.

Transamerica markets life insurance, annuities, retirement plans, and supplemental health insurance, as well as mutual funds and related investment products. Transamerica products and services are designed to help Americans protect against financial risk, build financial security and create meaningful retirements. Currently, Transamerica is among the ten largest distributors in the U.S. of variable annuities. Transamerica provides services and products through life insurance agents, broker-dealers, banks, wholesalers, and direct marketing channels as well as through the workplace. Transamerica has 269,776 licensed producers in the United States. In 2016, Transamerica paid $6.9 billion in benefits to its policyholders.

Transamerica has consistently supported and continues to support a best interest standard, transparency and treating our customers fairly. As such, we have always operated and continue to operate within the spirit of what was intended by the Fiduciary Rule. We have also consistently maintained that the Fiduciary Rule is significantly flawed and results in harm to the very consumers that the Fiduciary Rule purports to protect. The President's memorandum dated February 3, 2017 directing a study of the negative effects of the Fiduciary Rule on the American investor is well founded and deserves full consideration. A decision not to extend the January 1, 2018 date implies that there are no substantial regulatory changes needed to the Fiduciary Rule before it goes fully into effect and that nothing meaningful will be done pursuant to the questions raised in the RFI.

Reasons for Delay in the January 1, 2018 Applicability Date

Relief from the January 1 applicability date is required to allow affected companies such as Transamerica to revise and implement procedures and necessary guidelines and provide training regarding any new fiduciary definition, or new prohibited transaction exemptions, or any modifications of existing prohibited transaction exemptions. While we have been working diligently towards completion of all necessary procedures to comply with the January 1, 2018 applicability date of the Fiduciary Rule as currently in effect, we are hopeful that the Fiduciary Rule will be substantially changed to avoid the harm to consumers that have been documented in Transamerica's and others' prior comment letters. Transamerica will need time to accommodate any and all changes to the Fiduciary Rule resulting from full and thorough review resulting from the RFI process. We understand a number of our distribution partners may be facing similar challenges. There were certain innovations put forth late in 2016 that are positive market developments taking further steps toward mitigating conflicts of interest. In this regard, we have been told by many of our distributors that either significant changes to, or investment in, new administration systems will be required to accommodate these innovations. It is believed that these changes may take upwards of 12-18 months to fully implement. Any accommodation for system changes generated from amendments to the Rule would extend that timeline further.

A delay in the January 1 date will also permit the Department time to work with the Securities and Exchange Commission (the "SEC") on a best interest standard that will apply to financial professionals working with consumers in both the retirement plan and retail space. Coordination with the States is also required with respect to annuity products. The National Association of Insurance Commissioners has already commenced a review of its Model Suitability Regulations to add a best interest standard. A coordinated and comprehensive approach will do much to alleviate confusion to customers who are saving and investing both directly on a retail basis and through employer plans and IRAs.

A delay in the January 1 date will also allow the Department to thoroughly consider and evaluate comments provided regarding the flawed cost benefit analysis on which the Fiduciary Rule was based. A significant amount of new data has been collected showing that Department's 2016 economic analysis finding a large amount in lost savings due to conflicted advice is incorrect. In addition to amending the Department's flawed cost-benefit analysis, the unsound premise of the Fiduciary Rule that conflicted advice is the primary cause of diminished retirement savings needs to be rectified. The Dalbar's 22nd Annual Quantitative Analysis of Investor Behavior 2016 Report[1] finds that the primary cause of poor performance is investor behavior such as liquidating investments to meet cash needs and panic selling/ manic buying in attempts to time the market. Numerous studies have found that individuals utilizing financial professionals in their investment and retirement planning decisions achieve significantly better results than individuals who do not use financial

[1] DALBAR's 22nd Annual Quantitative Analysis of Investor Behavior 2015 For period ended: 12/31/2015 available at http://www.qidllc.com/wp-content/uploads/2016/02/2016-Dalbar-QAIB-Report.pdf

professionals. The role of a financial professional is critical in helping individuals avoid behavioral pitfalls and invest wisely for the long-term.

Finally, a delay is required to prevent continued market disruption and lack of access by consumers, especially less affluent investors, to retirement savings advice. In 2016, Transamerica annuity sales fell by approximately 50% from the previous year. This figure translates to 35,000 fewer Americans who were not counseled to consider a solution that would provide them with guaranteed income in their retirement. Industry information suggests that Transamerica is not alone in this decline as the Insured Retirement Institute reports[2] that in 2016 the top sellers of variable annuities experienced losses of at least 25%. The persistent ambiguity surrounding the Rule will continue to have a dampening effect on industry sales of a guaranteed income product designed to provide the consumer with life-long income. No reliance can be placed on the recent Department decision to extend PTE 84-24 to certain annuity products until the final rule is promulgated.

Conclusion

Transamerica applauds the Department and its consideration of new evidence that the Fiduciary Rule, in effect, is significantly flawed and causing harm to the very consumers it purports to protect. To effectively analyze the comments provided without further market disruption, significant cost, and harm to consumers, we urge the Department to delay the January 1 date until a meaningful period after promulgation.

Transamerica continues to support the spirit of the Fiduciary Rule and a uniform best interest standard for financial professionals providing advice for all products across all account types. However, for the reasons detailed in this and other comment letters, the Fiduciary Rule fails to achieve its goals. Transamerica recommends the Department take the time to review and substantially revise the Rule as advocated in this letter. We believe that it is critical to work with the SEC and the States to ensure that a harmonized best interest standard is implemented for financial professionals providing investment advice across distribution channels and product lines.

We appreciate your consideration of this comment.

Sincerely,

Dave Paulsen
Executive Vice President, Chief Distribution Officer
Transamerica

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[2] Insured Retirement Institute, IRI Issues Fourth-Quarter 2016 Sales Report, March 30, 2017, available at https://www.myirionline.org/newsroom/newsroom-detail-view/iri-issues-fourth-quarter-2016-annuity-salesreport