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Filed Electronically

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

Re: Fiduciary Rule – Request for Extension of Transition Period (RIN 1210-AB82)

Dear Ladies and Gentlemen:

On behalf of the Groom Recordkeeper Group (the “Group”), we submit these comments in response to the Department of Labor’s Request for Information (“RFI”) on the Fiduciary Rule. The Group is a coalition of firms that provide recordkeeping services to employee benefit pension plans. Together, the members of the Group help provide millions of working families the opportunity to earn a secure retirement benefit. For the reasons discussed below, the Group urges the Department to promptly issue guidance extending the Transition Period while the Department undertakes the review of the Fiduciary Rule required by the February 3rd Presidential Memorandum. An immediate extension is absolutely necessary to avoid harm to consumers, and retirement investors will be sufficiently protected by the conditions of the Best Interest Contract (“BIC”) Exemption applicable during the Transition Period.

Recordkeepers are poised to have to devote significant resources to implement the conditions of the BIC Exemption that take effect at the end of the Transition Period. Those conditions include significant new disclosure and recordkeeping requirements, meaning recordkeepers must design and build new, sophisticated information technology systems. That process is extremely resource intensive, and importantly, it takes months, if not years, to complete. We note that recordkeepers were already facing an unreasonable timeline to implement the BIC Exemption, and the uncertainty surrounding the rule has already made it more difficult to meet the existing deadlines.

It is counterproductive to force recordkeepers and other service providers to build compliance systems for requirements that the Department may modify or eliminate. It is

Office of Exemption Determination
Employee Benefits Security Administration
July 21, 2017
Page 2

possible, if not likely, that the Department's review of the Fiduciary Rule and related exemptions will result in material changes. That is particularly true given the fact that the Department has signaled an intention to coordinate with the Securities and Exchange Commission, which is also requesting information related to the development of a fiduciary standard. Every hour and dollar consumed on preparing for terms and conditions that may never take effect is one that cannot be used to provide needed assistance to retirement consumers.

Moreover, the Department has itself noted on several occasions that the marketplace may require substantial time to develop and more fully evolve their product platforms and service delivery models to fit the stringent standards of the full BIC Exemption as it is currently written. Absent sufficient time, financial institutions will be forced to fit existing service models into the new regulatory mode, which will create significant market disruption and consumer confusion. The service provider community would also benefit from an allowance of additional time for purposes of obtaining interpretive guidance and resolving the many issues that need to be addressed before all of the disclosure and other requirements under the BIC Exemption become applicable.

An extension of the Transition Period will be beneficial to consumers. The costs of implementation are ultimately borne by retirement investors, so wasteful expenditures will negatively impact millions of people's retirement savings. Moreover, the Group continues to believe that many of the conditions of the BIC Exemption that go into effect after the Transition Period (e.g., the warranties in the BIC Exemption) will be harmful to consumers because they will limit investor choice and reduce access to investment advice. Delaying those conditions while the Department conducts its review is in the best interest of consumers.

The Department has already recognized that the Transition Period rules are sufficiently protective of retirement investors. As set forth in the Department's own justification for the 60-day delay of the Fiduciary Rule's applicability date and concurrent reduction in conditions for the Transition Period, retirement consumers already achieve the vast majority of the predicted monetary benefits of the Fiduciary Rule through the application of the Impartial Conduct Standards, including the imposition of the best interest standard. See 82 F.R. 16902, 16907. Again, by the Department's own reasoning, such protections can continue even if the Transition Period is extended without much, if any, cost to the consumers.

In light of the foregoing, the Group makes the following recommendations:

- The Department should issue an Interim Final Rule that extends the current Transition Period relief and conditions, as articulated in 82 F.R. 16902- 16918, until at least one year following completion of its Presidential Memorandum review. It is critically

Office of Exemption Determination
Employee Benefits Security Administration
July 21, 2017
Page 3

important that the Department issue such a rule as soon as possible – and preferably prior to August 1st – to prevent unnecessary implementation costs.

- The Department should extend the non-enforcement relief under FAB 2017-02 for the same period of time that the Transition Period is extended. This extension of the temporary enforcement policy is consistent with the Department’s general approach to implementation, which the Department has said “will be marked by an emphasis on assisting (rather than citing violations and imposing penalties on) plans, plan fiduciaries, financial institutions, and others who are working diligently and in good faith to understand and come into compliance with the fiduciary duty rule and exemptions.”

The Group also requests that the Department extend the information collection period for the remaining requests in the RFI beyond August 7th. The RFI raises a considerable number of issues, and it will take time for recordkeepers and other stakeholders to provide thoughtful and helpful responses. 30 days is simply an insufficient amount of time, particularly given the challenges with trying to prepare to comply with the BIC Exemption after the Transition Period.

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We appreciate the Department’s consideration of this important matter, and the Group intends to provide additional comments on other issues raised by the RFI. We look forward to working with the Department to complete its review of the Fiduciary Rule and related exemptions.

Respectfully submitted,


Stephen M. Saxon