

July 21, 2017

Filed Electronically

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

Re: Fiduciary Rule Request for Information, Question 1 (Delay)
RIN 1210-AB82

Ladies and Gentlemen:

On behalf of The Guardian Life Insurance Company of America and its affiliates (“Guardian”), I am pleased to respond to the Department of Labor’s (the “Department”) Request for Information (“RFI”) regarding the final regulation (the “Fiduciary Rule”) defining the term “fiduciary” under the Employee Retirement Income Security Act of 1974, as amended (“ERISA”). This letter is being provided in response to Question 1 in the RFI, regarding the potential delay of the January 1, 2018 applicability date (the “Applicability Date”) of the provisions in the Best Interest Contract Exemption, Principal Transactions Exemption and amendments to Prohibited Transaction Exemption 84-24.

Guardian is a Fortune 250 global financial services company that provides individual retirement savers and small businesses with diversified financial product and service solutions, including life insurance, disability income insurance, annuities, wealth management and investments, which can help Americans achieve long-term financial security and guaranteed income for life. Guardian has approximately 8,800 employees and a network of over 2,750 financial representatives in more than 58 agencies nationwide. For nearly 160 years, Guardian’s success as a mutual company has been inextricably linked to ensuring our customers receive products and services that are in their best interest. It is from this customer-focused perspective that I submit this letter.

Guardian is concerned that certain elements of the Fiduciary Rule that became applicable on June 9, 2017 have generally resulted in Americans having fewer retirement product offerings and more limited access to professional investment advice. However, we are hopeful that upon the DOL’s complete review of public comments, meaningful improvements to the regulation will be made to ensure millions of American retirement savers will again have access to needed financial advice and a broad range of appropriate investment options.

Guardian urges the Department to delay the forthcoming Applicability Date of January 1, 2018 while it completes a full review of public comments on potential changes to the Fiduciary Rule and considers new industry data in order to minimize customer confusion and enable regulators to harmonize regulatory requirements. A meaningful delay of the January 1, 2018 Applicability Date is appropriate for the below reasons:

- The Department has suggested that substantive changes to the Fiduciary Rule may be forthcoming. While the Department contemplates foundational regulatory changes, a delay would provide for a more streamlined and efficient compliance implementation period for customers.
- Without a delay, companies and financial services professionals will likely continue to invest millions of dollars into compliance systems and processes that may ultimately be unnecessary. This would not only be inefficient, but would also likely create confusion for our customers.
- An extension of the Applicability Date will allow the Department to align its regulatory requirements with the Securities and Exchange Commission (“SEC”), which Guardian believes is the appropriate regulator of investment advisers and broker-dealers, and many of the retail investment products covered by the Fiduciary Rule. It is critical that the Department coordinate its review of the Fiduciary Rule with the SEC and the National Association of Insurance Commissioners to prevent conflicting and incompatible federal and state regulatory requirements.

During its examination of the Fiduciary Rule, Guardian encourages the Department to consider a more appropriate enforcement mechanism for the rule by eliminating the private right of action created in the Best Interest Contract, and engaging the SEC in a meaningful way to align the regulation of retail investment products with the overarching retirement security needs of American savers.

Guardian is committed to fully complying with the Fiduciary Rule. However, given the contemplated modifications to the rule’s regulatory requirements, immediate clarity from the Department on a delay is critical as our company may need to realign our compliance and implementation efforts, personnel training and customer communications. As the Department works to make improvements to the Fiduciary Rule, delaying the Applicability Date will also remove arbitrary external deadlines on the agency.

Thank you for providing Guardian with the opportunity to comment. If I can provide any further assistance, please contact me.

Respectfully submitted,

A handwritten signature in cursive script that reads "Tracy Rich". The signature is written in black ink and is positioned above the printed name and title.

Tracy Rich
Executive Vice President & General Counsel