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July 21, 2017

**VIA E-MAIL AND REGULAR MAIL
EBSA.FIDUCIARYRULEEXAMINATION@DOL.GOV**

Office of Exemption Determinations
EBSA
U.S. Department of Labor
200 Constitution Avenue, NW, Suite 400
Washington DC 20210

(Attention: D-11933)

Re: RIN 1210-AB82 - Request for Information Regarding the Fiduciary Rule and Prohibited Transaction Exemptions; Comments in response to Question 1 (relating to extending the January 1, 2018 applicability date of certain provisions)

Ladies and Gentlemen:

We respectfully submit our comments on the Department of Labor's ("DOL") Request for Information Regarding the Fiduciary Rule and Prohibited Transaction Exemptions ("RFI").¹ Our comments are limited to the first portion of the RFI related to the potential delay of the January 1, 2018 applicability date of certain provisions of the BIC Exemption and amendments to PTE 84-24.²

This letter is being submitted on behalf of the entities listed in Schedule A to this letter. They are a diverse group involved in the sale of fixed annuity products, including independent marketing organizations ("IMO") and other insurance intermediaries of varying sizes and business structures.

For your convenience, each of the DOL's questions related to the extension of the January 1, 2018 applicability date is listed, followed by our comments.

¹ 82 Fed. Reg. 31278 (July 6, 2017).

² Id.

Introductory Comment

Independent insurance agents are an invaluable resource for many retirement investors seeking access to various insurance products, such as fixed rate annuities, fixed indexed annuities and life insurance, that will provide guaranteed retirement income and/or greater diversification to their retirement income portfolios. These agents are typically independent from the insurance companies that issue these insurance products and often contract with an insurance intermediary, such as an IMO, to provide distribution services, training and marketing support.

In turn, IMOs are an invaluable resource for independent insurance agents. The scope and breadth of annuities and other insurance products available in the marketplace is quite significant, and the importance of IMO services in assisting agents with identifying products that are in the best interest of the retirement investors they serve as fiduciaries cannot be overstated.

Looking solely at fixed indexed annuity sales, since 2011, sales exceed \$260 billion with sales in 2016 alone exceeding \$58 billion. Independent agents accounted for over 80% of sales from 2011 to 2014 and over 60% in 2015 and 2016. With a market of this size, and the significance of the role of independent agents and insurance intermediaries in that market, the impact of the regulatory environment must be carefully weighed. We submit that this takes careful analysis and time.

Given the size and complexity of this market, we believe it is unrealistic to think that the DOL will be able to fully assess the impact of the Exemptions on this population by January 1, 2018, a mere five months away.

Would a delay in the January 1, 2018 applicability date reduce the burdens on financial services providers and benefit retirement investors by allowing more efficient implementation? Would a delay otherwise be advantageous to advisers or investors?

Yes.

When the fiduciary rule and the exemptions were finalized, independent insurance agents and insurance intermediaries faced the real possibility of going out of business because of the restrictions imposed by the BIC Exemption and amendments to PTE 84-24. Since the spring of 2016, agents and insurance intermediaries have been trying to determine whether and how the standards would apply to them, to which products the requirements

would apply and how to comply with the new rules. The answers to some of these questions only became somewhat clearer earlier this year, and then only for a seven month period. Put another way, it only became clear that independent insurance agents and insurance intermediaries would be able to continue the business of selling fixed indexed annuities less than six weeks ago. Even then, the clarity was limited to the transition period (which ends on January 1, 2018).

The rules for marketing annuities and insurance products to retirement plan and IRA investors by independent insurance agents and insurance intermediaries continue in a state of flux. For example, we are not aware of any action being taken or consideration being given to the “Proposed Best Interest Contract Exemption for Insurance Intermediaries” issued by the DOL on January 19, 2017.

To avoid unnecessary disruption to the marketplace, we respectfully submit that the rules that will apply to insurance intermediaries need to be carefully considered. When the DOL issued the final fiduciary rule and exemptions in April 2016, a one-year period was provided to prepare for the applicability date, with further transition relief under the BIC Exemption. But from the perspective of insurance intermediaries, the effect of the rule and exemptions is hardly clearer today than it was then.

Much of the focus during the current transition period has been on PTE 84-24, since it enables independent agents and insurance intermediaries to continue to assist clients in the fixed indexed annuity market. This is especially important since the BIC Exemption does not permit insurance intermediaries to serve as financial institutions. A significant number of insurance intermediaries hurriedly apply for “financial institution” status under the BIC Exemption, which was represented to be available. None of the requested exemptions were granted. While the DOL did issue the proposed IMO Exemption nine months later, it quickly became apparent that a disconnect continued to persist between the exemptive relief proposed and the realities of the marketplace.

We submit that IMOs are well-qualified and willing to fill the necessary support role of a financial institution for independent agents, and further, can do so without limiting the products they make available to their clients. But from their perspective, IMOs remain at ground zero as to the exemptions they have available and the associated requirements that will apply to them over the long term.

Unless PTE 84-24 continues to apply to fixed indexed annuity sales after the end of the transition period, the DOL will need to consider whether -- and more importantly how --

IMOs and other insurance intermediaries can be treated as financial institutions under the BIC Exemption. (We anticipate submitting further comments on this issue in response to other questions posed in the RFI.)

Given the complexity of the application of the fiduciary rule and the exemptions to this important retirement income market, and the important decisions the DOL needs to make (as evidenced by the other questions in the RFI), we believe the DOL needs additional time beyond the end of this year to study the currently effective rules, consider responses it will receive to the RFI and consider how best to approach the sale of annuities and other insurance products through independent agents and insurance intermediaries.

Because the rules for independent insurance agents and insurance intermediaries are still not finalized and because adapting to any new rules will take time, we urge the DOL to extend the current transition period well beyond January 1, 2018, to allow time for agents and intermediaries to adjust to the existing transition rules and to engage in adequate analysis and adopt modification of processes, procedures and practices that may be called for under the rules once they do become fully applicable.

Furthermore, because independent insurance agents are independent from the insurance companies that issue the products they sell, it will be difficult to ensure the proper education and training required to properly comply with the exemptions within the remaining months before the applicability date. A further delay would ensure the proper amount of time to implement education and training for these agents and would provide for a smoother and more efficient implementation of applicable requirements.

As noted, independent insurance agents are a significant resource for many investors seeking access to products that will provide retirement income. An extended transition period will enable retirement investors to continue to work with the advisors they have come to know and trust, while giving agents and insurance intermediaries time to fully incorporate new rules, such as the Impartial Conduct Standards, into their operations. It will also enable the DOL to confer with other regulatory agencies, such as state insurance commissioners, who also regulate this market and to prevent the confusion of overlapping and possibly conflicting laws and regulations.

An extended delay until at least January 1, 2019, will ensure that the final rules, in whatever form they take, will both achieve the DOL's purpose to protect retirement investors and will provide the least amount of disruption to the insurance market and the retirement investors who rely on it for retirement income.

Would any further delays carry any risk?

No.

In the DOL's extension of the applicability date, issued April 7, 2017,³ the DOL noted that its 2016 rulemaking concluded that much of the harm experienced by retirement investors "could be avoided through the imposition of fiduciary status and adherence to basic fiduciary norms, particularly including the Impartial Conduct Standards."⁴ Because these important fundamental standards have been applicable since June 9, 2017, we submit that a further extension of the applicability of other aspects of the exemptions – which may be viewed as more administrative in nature -- will not pose further risk of harm to retirement investors.

What costs and benefits would be associated with any such delay?

If the DOL decides against further delay, there would be substantial costs.

Many independent insurance agents and insurance intermediaries would be forced out of business. This would deprive retirement investors of access to this large population of experienced advisors and greatly reduce access to insurance products that are otherwise beneficial alternative investment opportunities for retirement income.

It could also mean incomplete, haphazard or possibly incorrect implementation of the rules by entities that continue to do business without a complete appreciation for all of the requirements of the rules.

Finally, if the rules become applicable on January 1, 2018, and are subsequently modified, there is even a higher probability of confusion as a result. Given the additional questions raised by the DOL in the RFI, we submit that such confusion is inevitable if changes to the rules are rushed into effect. Further delay will permit an orderly, thorough and comprehensive evaluation of the rules and their impact on this important market that will benefit the retirement investor, as well as the independent insurance agents and insurance intermediaries.

³ 82 Fed. Reg. 16902 (April 7, 2017).

⁴ Id. at 16905.

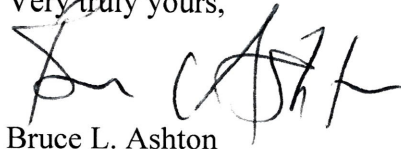
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Thank you for the opportunity to submit these comments for your consideration. Please contact me to discuss any of these comments.

Very truly yours,

A handwritten signature in black ink, appearing to read "Bruce L. Ashton". The signature is stylized and cursive, with the first name "Bruce" and last name "Ashton" clearly legible.

Bruce L. Ashton

Schedule A

Annexus
Brokers International, Ltd.
Clarity 2 Prosperity Mastermind Group
Financial Independence Group LLC
Ideal Producers Group
InsurMark
Kestler Financial Group, Inc.
Legacy Marketing Group
The Annuity & Life Source Inc.