September 12, 2017

Filed Electronically

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

Re: Proposed Eighteen Month Extension of the Transition Period and Applicability Dates for the Best Interest Contract Exemption ("PTE 2016-01"), Class Exemption for Principal Transactions ("PTE 2016-02"), and Prohibited Transaction Class Exemption 84-24 ("PTE 84-24") (RIN 1210-AB82)

Dear Sir or Madam:

As the second-largest retirement services provider in the U.S., with more than 8 million people in the plans we serve, Empower Retirement appreciates the opportunity to share our comments with the Department of Labor, Employee Benefit Security Administration (DOL) with respect to the proposed eighteen month extension.

Empower Retirement strongly supports the DOL's proposal to extend the applicability date for certain provisions of PTE 2016-01; PTE 2016-02; and the 2016 amendments to PTE 84-24 by eighteen months, from January 1, 2018 until July 1, 2019 (the "Proposed Extension").[1] The DOL issued PTE 2016-01, PTE 2016-02, and the 2016 amendments to PTE 84-24, alongside the regulation, "Definition of the Term 'Fiduciary'; Conflict of Interest Rule--Retirement Investment Advice", 81 Fed. Reg. 20946 (April 8, 2016) and the 2016 amendments to Prohibited Transaction Class Exemptions 75-1, 77-4, 80-83, 83-1, and 86-128, (together, the "Fiduciary Rule"). For the following reasons, we believe the DOL should finalize the Proposed Extension promptly and without alterations.

The DOL has indicated that the review required by the President's Memorandum on the Fiduciary Rule (82. Fed. Reg. 9675 (Feb. 7, 2017)) is ongoing, and that as a result of this review, the DOL may rescind or revise the Fiduciary Rule. In connection with the DOL's efforts, it has received in excess of 260,000 comments from interested parties. We are supportive of the DOL's mission of conducting a thoughtful review of the Fiduciary Rule and its "efforts to reduce costs and increase benefits to all affected parties." The Proposed Extension should be finalized as it is consistent with this mission. Unless the Proposed Extension is granted, service providers in the retirement industry will be forced to incur costs that will not result in offsetting retirement investor savings.

From a quantitative and qualitative standpoint, the Proposed Extension makes sense. In the absence of a sufficient delay, financial service providers will be required to make material changes to their product and retirement plan offerings only to have to undo or modify those changes if the Fiduciary Rule is later rescinded or amended. That will lead to confusion among consumers and additional costs, which will inevitably be borne by retirement savers. From a quantitative standpoint we agree that there will be substantial cost savings to the financial services industry without impacting consumers. We recognize that the DOL believes that significant consumer savings are generated by the Impartial Conduct Standards – standards which already are and would

[1] 82 Fed. Reg. 41365 (Aug. 31, 2017).

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remain in effect during the eighteen-month period. We agree with the DOL's conclusion that the financial services industry will realize substantial savings during the eighteen-month period as we and others are able to devote time, money, and other resources that would otherwise be spent complying with the compliance requirements of the Fiduciary Rule.

We believe it is imperative that the Proposed Extension be finalized as soon as possible. Absent a final extension, the retirement industry is faced with uncertainty as to when or if new compliance provisions might become effective. This uncertainty will result in the inability to efficiently allocate internal resources. While a longer extension or an extension tied to completion of the DOL's review may offer some additional benefit, it is more important that the Proposed Extension be finalized. In the Proposed Extension, the DOL stated its objective was to complete its review, propose and finalize any changes sufficiently before July 1, 2019 to provide firms with sufficient time to design and implement an orderly transition period. We would urge that the DOL exercise caution in any assumption of the time necessary to respond any changes. DOL should seek the input of the retirement industry in determining the time needed for an efficient and orderly transition. Should the DOL ultimately propose changes, the DOL should at that time, propose an additional extension to provide plan service providers sufficient time to build out the systems necessary to comply with such changes.

To avoid disruption in the market, the DOL should refrain from adding new conditions but should simultaneously announce that the non-enforcement policy announced in FAB 2017-02 will be extended during the eighteen-month extension. The relief offered under FAB 2017-02 was conditioned on fiduciaries working diligently and in good faith to comply with the fiduciary duty rule and exemptions. The DOL should make clear that this does not require continuing implementation efforts that would have been required for the January 1, 2018 applicability date, but is based on continued adherence to the Impartial Conduct Standards.

We urge the DOL to finalize the Proposed Extension in its current form. We further request the DOL extend the application of FAB 2017-02 to ensure that the industry is not forced to expend resources on compliance efforts that prove unnecessary because of subsequent changes to the Fiduciary Rule and to ensure that retirement savers do not lose additional access to vital advice.

Sincerely,

Edmund F. Murphy, III | President
Empower Retirement

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