

SUBMITTED ELECTRONICALLY: [EBSA.FiduciaryRuleExamination@dol.gov](mailto:EBSA.FiduciaryRuleExamination@dol.gov)

September 15, 2017

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

RE: **RIN 1210-AB82**

Proposed Extension of Transition Period and Delay of Applicability Dates to  
PTE 2016-01, PTE 2016-02, and PTE 84-24

To Whom it May Concern:

NAFA, the National Association for Fixed Annuities,<sup>1</sup> submits this letter in strong support of the Department of Labor’s proposed 18-month extension of the current transition period and delay of the applicability dates for the Best Interest Contract Exemption (PTE 2016-01), the Class Exemption for Principal Transactions in Certain Assets Between Investment Advice Fiduciaries and Employee Benefit Plans and IRAs (PTE 2016-02), and the Prohibited Transaction Exemption 84-24 (PTE 84-24) as set forth in the Department’s recent Notice of Proposed Rulemaking.<sup>2</sup>

NAFA agrees with the Department that such a delay is essential in order “to give the Department the time necessary to consider possible changes and alternatives to these exemptions” to the fiduciary rule (“the Rule”) and to protect regulated parties against the unnecessary incursion of resources on compliance protocols for requirements of the Rule or its exemptions that may ultimately be revised or repealed.<sup>3</sup>

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<sup>1</sup> NAFA, the National Association for Fixed Annuities, is the premier trade association exclusively dedicated to fixed annuities. Our mission is to promote the awareness and understanding of fixed annuities. We educate annuity salespeople, regulators, legislators, journalists, and industry personnel about the value of fixed annuities and their benefits to consumers. NAFA’s membership represents every aspect of the fixed annuity marketplace covering 85% of fixed annuities sold by independent agents, advisors and brokers. NAFA was founded in 1998. For more information, visit [www.nafa.com](http://www.nafa.com).

<sup>2</sup> 82 FR 41365, August 31, 2017.

<sup>3</sup> *Id.* Please also see the prior comment letters that NAFA has submitted to the Department on [June 21, 2015](#), [September 24, 2015](#), [February 17, 2017](#), [March 14, 2017](#), [April 17, 2017](#), and [July 21, 2017](#).

NAFA believes that the Department has struck the proper approach in proposing a delay of 18 months from the current applicability date of January 1, 2018, but it would caution that the extension of the transition period must accommodate enough time between the finalization of all modifications to the Rule (and its exemptions) and the applicability date such that industry has adequate implementation time. The regulated parties in the retirement financial services industries, including NAFA carrier and independent marketing organization members, can only begin real compliance implementation once the Rule is final. If the Department's reexamination takes longer than expected and results in significant revisions to the Rule, industry may not be left with sufficient time ahead of a July 1, 2019 applicability date to put into place the necessary compliance practices.

Accordingly, to provide certainty to the industry and to ensure that the Rule, however it is modified, is appropriately implemented, NAFA suggests that the applicability date be delayed for one year after the finalization of the Rule. The proposed timetable may in fact accommodate this; the Department may complete its work on the Rule in the next 6 – 8 months, providing adequate time before the proposed July 1, 2019 applicability date. However, NAFA asks that the Department remain flexible regarding this date so that industry has the appropriate time to implement the Rule and would suggest that the delay end 12-months after the Rule is final and published.

Finally, NAFA also strongly supports an extension of the Department's temporary enforcement policy during the transition period that would correspond with the timetable discussed above.<sup>4</sup>

NAFA appreciates the opportunity to submit these comments. Please do not hesitate to contact me if you would require any additional information.

Sincerely,



Charles "Chip" Anderson  
NAFA Executive Director

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<sup>4</sup> 82 FR 41365, 41370, fn. 32, referring to Field Assistance Bulletin 2017-02 (May 22, 2017).