



TheStandard®

September 15, 2017

Mailed Electronically: EBSA.FiduciaryRuleExaminations@dol.gov

Office of Exemption Determinations, EBSA  
Attn: EBSA- D-11712, 11714, 11850  
US Department of Labor  
200 Constitution Avenue NW, Suite 400  
Washington, DC 20210

**RE: Extension of Transition Period and Delay of Applicability Dates; Best Interest Contract Exemption (PTE 2016–01); Class Exemption for Principal Transactions in Certain Assets Between Investment Advice Fiduciaries and Employee Benefit Plans and IRAs (PTE 2016–02); Prohibited Transaction Exemption 84–24 for Certain Transactions Involving Insurance Agents and Brokers, Pension Consultants, Insurance Companies, and Investment Company Principal Underwriters (PTE 84–24) (ZRIN 1210–ZA27)**

Hello:

Standard Insurance Company and Standard Retirement Services, Inc. (collectively, "The Standard") thank you for the opportunity to provide comments and support for the proposed extension of the special transition period under sections II and IX of the Best Interest Contract Exemption and Prohibited Transaction Exemption 84–24 for Certain Transactions Involving Insurance Agents and Brokers, Pension Consultants, Insurance Companies, and Investment Company Principal Underwriters (PTE 84–24).

The Standard is an Oregon-based financial services provider with a national presence. Through our affiliated companies, we provide a variety of financial services, including individual and group annuities, full service retirement plan platforms and group and individual insurance products.

The Standard appreciates the opportunity to comment and strongly supports the Department of Labor's (the "Department's") proposed extension of the special transition period. Given the negative impact the Regs and Exemptions<sup>i</sup> have already had, an extension of the special transition period is prudent to give the industry, and retirement investors, time to review, learn and adapt to any changes.

As explained in our response to your request for information dated August 8, 2017<sup>ii</sup>, the Regs and Exemptions have harmed retirement investors by causing price increases, and if not modified or revoked, will cause further harm by limiting access to a set of products through an important distribution channel: annuities offered by independent insurance agents. Also, as you state in the proposal, "The Department is particularly concerned that, without a delay in the applicability dates, regulated parties may incur undue expense to comply with the conditions or requirement that it ultimately determines to revise or repeal." <sup>iii</sup> The Regs and Exemptions in

their current form have caused great disruption and expense for the financial services industry. It is estimated that the costs of complying with the Regs are running 3 times higher than the Department estimated. The costs are currently estimated at \$39 to \$47 billion and these costs will likely be passed on to investors.<sup>iv</sup> We urge you once again to work with other Regulatory bodies to revise, replace or revoke these rules.

You have requested comments in the following areas:

**1. The Department requests comments on whether it could structure the delay in a way that could be beneficial to retirement investors and to market participants.**

Yes, we believe that a delay of the end of the special transition period for 18 months would be a structure that would benefit retirement investors and market participants. The delay will allow the Department sufficient time to carefully review the vast amount of information it has received regarding the impact of the Regs on the industry and consumer access to advice. The Presidential Memo asked the Department to consider "Whether the anticipated applicability of the Fiduciary Duty Rule has harmed or is likely to harm investors due to a reduction of Americans' access to certain retirement savings offerings, retirement product structures, retirement savings information, or related financial advice."<sup>v</sup> We already have evidence of harm to investors including reduced access to annuities, higher account minimums,<sup>vi</sup> and increased prices<sup>vii</sup>. An 18 month delay is necessary to protect retirement investors while the Regs and Exemptions are reviewed.

A delay in the end of the special transition period would be beneficial to retirement investors for several reasons. First, a delay in the changes to the 84-24 Exemption would allow retirement investors continued access to annuity products from their independent insurance agents. Since the original version of 84-24 covers all annuities, a delay would allow retirement investors continued access to this important distribution channel and give the Department time to review the rule and consider other methods of compliance for independent insurance agents. A delay would also provide for greater efficiency as it would allow firms to slow down on the reduction of services.<sup>viii</sup>

Finally, an 18-month delay would allow the Department sufficient time to complete a full-scope regulatory impact analysis and to consider solutions and innovations that extend beyond "clean shares" and neutralizing mutual fund fees. As stated in our earlier comments<sup>ix</sup>, the Regs, Exemptions, and earlier regulatory impact analysis had a strong mutual fund bias and failed to properly consider insurance products, commissions and annuity distribution channels. In conducting a new economic and legal analysis, the scope must be broadened to not only study revenue sharing and mutual fund fees, but also the impact that the Regs and Exemptions have had, and will have, on retirement plan investors' access to the guaranteed lifetime income products. The Department has supported guaranteed lifetime income products in the past through its efforts to include such products as retirement plan distribution options.

**2. The Department also requests comments on whether it would be beneficial to adopt a tiered delay approach.**

The Department should not adopt a tiered delay approach. The other methods proposed in the request for comments would only add further confusion. A fixed time period will be in the best interests of retirement investors because it will allow financial service companies to be able to continue to provide advice, education and services to retirement plan investors without uncertainty. Once any changes to the Regs and Exemptions are proposed and finalized, the Department will be in a better position to evaluate what, if any, additional time is needed to implement the changes. A fixed time period for the Extensions will provide the industry and retirement investors alike a more definite environment in which to conduct business.

**3. The Department should not condition any delay of the Transition Period on the behavior of the entity seeking relief under the Transition Period beyond the good faith compliance policy that has already been stated.**

On May 22, 2017, the DOL issued a temporary enforcement policy indicating that during the transition period, the Department would not pursue claims against investment fiduciaries who are working diligently and in good faith to comply with the Regs and Exemptions<sup>x</sup>. It has been our experience that firms are indeed working diligently to understand and comply with the Regs and Exemptions. To condition a further delay on certain steps toward “innovations” would only further confuse investors and the industry.

In addition to extending the special transition period, we ask that The Department also extend the temporary enforcement policy providing relief to investment advice fiduciaries who are working in good faith to comply with the Regs. Adding subjective requirements like “taking steps toward innovations” would only add further uncertainty and confusion to the current situation. Financial Service Representatives and financial companies are, in many cases, already fiduciaries and are bound “to act in the best interests of retirement plan investors” and held to the Impartial Conduct Standards. No further punitive measures are necessary.

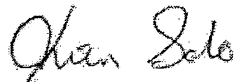
Conclusion:

We thank the Department for the opportunity to provide comments regarding the additional delay of the special transition period and for its commitment to finding solutions to the current structure that will best serve retirement plan investors.

Sincerely,



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<sup>i</sup> Fiduciary”; Conflict of Interest Rule—Retirement Investment Advice, Class Exemption for Principal Transactions in Certain Assets Between Investment Advice Fiduciaries and Employee Benefit Plans and IRAs (PTE 2016–02); Prohibited Transaction Exemption 84–24 for Certain Transactions Involving Insurance Agents and Brokers, Pension Consultants, Insurance Companies, and Investment Company Principal Underwriters (PTE 84–24)

<sup>ii</sup> The Standard provided comments to RFI #2 in a letter dated August 8, 2017

<sup>iii</sup> 82 Fed. Reg. 41365 (August 31, 2017)

<sup>iv</sup> <http://www.investmentnews.com/article/20170908/BLOG09/170909925/our-best-tool-against-the-dol-fiduciary-rule-is-data>

<sup>v</sup> 82 Fed. Reg. 9675 (Feb. 7, 2017)

<sup>vi</sup> ACLI provided comment letter to RFI #2 dated August 7, 2017

<sup>vii</sup> The Standard provided comments to RFI #2 in a letter dated August 8, 2017

<sup>viii</sup> ACLI comment letter dated August 7, 2017, Footnote 7

<sup>ix</sup> The Standard provided comments to the 60 day delay dated March 16, 2017

<sup>x</sup> Field Assistance Bulletin 2017-01