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September 15, 2017

Office of Exemption Determinations
Employee Benefits Security Administration
Attention: D-11712, 11713, 11850
U.S. Department of Labor
200 Constitution Avenue, N.W., Suite 400
Washington, D.C. 20210

Re: RIN 1210-AB82; 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)

To Whom It May Concern:

I write on behalf of the Public Investors Arbitration Bar Association ("PIABA"), an international bar association comprised of attorneys who represent investors in securities arbitrations. Since its formation in 1990, PIABA has promoted the interests of the public investor in all securities and commodities arbitration forums, while also advocating for public education regarding investment fraud and industry misconduct. Our members and their clients have a strong interest in rules which govern the conduct of those who provide advice to investors.

PIABA strongly opposes any further extension of the transition period and delay of the January 1, 2018 applicability date of the exemptions (collectively, the “PTEs”) which accompany the Department of Labor’s Conflict of Interest Rule (the “Rule”).

The Department has already solicited comments on its proposal to delay implementation of the Rule and the PTEs[1] in response to the President’s Memorandum to the Secretary of Labor

[1] *See*, Dep’t of Labor, *Definition of the Term “Fiduciary”; Conflict of Interest Rule-Retirement Investment Advice; Best Interest Contract Exemption (Prohibited Transaction Exemption 2016-01); Class Exemption for Principal Transactions in Certain Assets Between Investment Advice Fiduciaries and Employee Benefit Plans and IRAs (Prohibited Transaction Exemption 2016-02); Prohibited Transaction Exemptions 75-1, 77-4, 80-83, 83-1, 84-24 and 86-128*, 82 Fed. Reg. 12319 (Mar. 2, 2017) (“Proposal for Delay”), available at

directing the Department to "examine the Fiduciary Duty Rule to determine whether it may adversely affect the ability of Americans to gain access to retirement information and financial advice."[2] The Department received approximately 193,000 comment and petition letters, with 178,000 commenters and petitioners (92%) opposing any delay of the Rule or PTEs.[3] Notwithstanding the overwhelming opposition to any delay whatsoever, the Department nevertheless delayed the Rule and PTEs as it had proposed. The Department delayed the applicability date of the Rule until June 9, 2017, and delayed the applicability dates of the PTEs so that the Impartial Conduct Standard would be implemented on June 9, 2017, but many other conditions of the PTEs would not be implemented until January 1, 2018.[4]

The Department now seeks to fully delay implantation of the PTEs until July 1, 2019, eighteen to twenty six months after their originally contemplated implementation.[5] However, further delay of the full implementation of the PTEs will lead to additional irreversible harm to investors.

The Department recently filed a request for information as to whether a further delay of implementation of the remaining conditions of the PTEs is warranted.[6] Comments were due in early August. As of July 21, 2017, the Department had already received 60,000 comments.[7] The Department has now moved forward with its proposed delay, notwithstanding that it has not had sufficient time to review the comments previously received. It appears the outcome has been pre-determined, with the additional requests for comments on the Department's proposals nothing more than a statutorily required formality.

The Department's actions and justifications have been and continue to be flawed. The Department's rationale behind its prior request for information was flawed. The Department

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https://www.federalregister.gov/documents/2017/03/02/2017-04096/definition-of-the-term-fiduciary-conflict-of-interest-rule-retirement-investment-advice-best.

[2] White House, *Presidential Memorandum on Fiduciary Duty Rule* (Feb. 3, 2017), available at https://www.whitehouse.gov/the-press-office/2017/02/03/presidential-memorandum-fiduciary-duty-rule.

[3] *See*, Dep't of Labor, *Definition of the Term "Fiduciary"; Conflict of Interest Rule—Retirement Investment Advice; Best Interest Contract Exemption (Prohibited Transaction Exemption 2016–01); Class Exemption for Principal Transactions in Certain Assets Between Investment Advice Fiduciaries and Employee Benefit Plans and IRAs (Prohibited Transaction Exemption 2016–02); Prohibited Transaction Exemptions 75–1, 77–4, 80–83, 83–1, 84–24 and 86–128*, 82 Fed. Reg. 16902, 16903 (Apr. 7, 2017) ("Notice of Delay"), available at https://www.federalregister.gov/documents/2017/04/07/2017-06914/definition-of-the-term-fiduciary-conflict-of-interest-rule-retirement-investment-advice-best.

[4] *See*, *id.*

[5] *See*, Dep't of Labor, 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), 82 Fed. Reg. 41365 (Aug. 31, 2017) ("Second Proposal for Delay"), available at https://www.federalregister.gov/documents/2017/08/31/2017-18520/extension-of-transition-period-and-delay-of-applicability-dates-best-interest-contract-exemption-pte.

[6] *See*, Dep't of Labor, *Request for Information Regarding the Fiduciary Rule and Prohibited Transaction Exemptions*, 82 Fed. Reg. 31278 (July 6, 2017) ("Request for Information"), available at https://www.federalregister.gov/documents/2017/07/06/2017-14101/request-for-information-regarding-the-fiduciary-rule-and-prohibited-transaction-exemptions.

[7] *See*, Second Proposal for Delay, 82 Fed. Reg. at 41366.

asked whether a delay would "reduce burdens on financial services providers and benefit retirement investors by allowing for more efficient implementation responsive to recent market developments." While the Department understandably has to be cognizant of the burdens of any rulemaking on financial services companies, its mission is to "foster, promote, and develop the welfare of the wage earners, job seekers, and retirees of the United States..."[8] Similarly, the Employee Benefits Security Administration's ("EBSA") mission is to "assure the security of the retirement, health and other workplace related benefits of America's workers and their families. [It] will accomplish this mission by developing effective regulations; assisting and educating workers, plan sponsors, fiduciaries and service providers; and vigorously enforcing the law."[9]

In its current proposal for delay, the Department continues to focus on the costs and burdens to the industry to justify further delay of implementation of the PTEs.[10] The Department continues to ignore the extensive review and consideration that went into the initial adoption of the Rule and PTEs. The Department continues to ignore the significant harm investors will incur due to further delay.

After being drafted, vetted, withdrawn, re-written, vetted, approved and revised again, the Rule and the PTEs are just the type of "effective regulations" that EBSA must develop to "assure the security of the retirement ... benefits of America's workers and their families." Unfortunately, rather than moving forward with implementation of the PTEs, the Department seeks to undermine its effectiveness, first by refusing to enforce the regulations[11] and then by seeking to delay and alter the regulations. The Department must do what it can to support full implementation of the PTEs if it is to act consistent with its mission.

Further Delay of the PTEs will be detrimental to retirement investors

While the Impartial Conduct Standards are important to investors, more is needed to ensure that investors are protected from conflicted advice which costs investors $17 billion each year.[12]

The Department created the Best Interest Contract Exemption (the "BICE") to allow firms to continue receiving commissions and other forms of compensation that are common to retail transactions involving retirement plans, while ensuring that investors are protected from conflicts inherent in such payments.[13] Pursuant to the BICE, financial advisors and firms that

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[8] Dep't of Labor, *Our Mission*, available at https://www.dol.gov/general/aboutdol/mission.
[9] Dep't of Labor, Employee Benefits Security Administration, *Our Mission*, available at https://www.dol.gov/agencies/ebsa/about-ebsa/about-us/mission-statement.
[10] *See*, Second Proposal for Delay, 82 Fed. Reg. at 41371.
[11] *See*, Dep't of Labor Field Assistance Bulletin No. 2017-02, "Temporary Enforcement Policy on Fiduciary Duty Rule" (May 22, 2017), available at https://www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/field-assistance-bulletins/2017-02; Dep't of Labor Field Assistance Bulletin No. 2017-03, "Enforcement Policy on Arbitration Limitation in the Best Interest Contract Exemption and Principal Transactions Exemption" (Aug. 30, 2017), available at https://www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/field-assistance-bulletins/2017-03.
[12] *See*, White House Council of Economic Advisers, *The Effects of Conflicted Investment Advice on Retirement Savings* (Feb. 2015); available at https://obamawhitehouse.archives.gov/sites/default/files/docs/cea_coi_report_final.pdf.
[13] DOL Final Rule, *supra* n. 5 at 20991.

provide retirement advice may continue to receive commissions, 12b-1 fees, revenue sharing payments from issuers, sales loads or other similar compensation, provided that the investment advice they give is in the investor's best interest and "that they implement safeguards against the harmful impact of conflicts of interest on investment advice."[14] Those safeguards include warranties that the firms have done what they are required to do, and a contract that clearly sets forth the financial advisors' obligations to the retirement investor.

However, the Department's current proposal will delay implementation of those safeguards, removing an important, necessary protection from the exemption. For years, retirement investors have been sold products that do little more than benefit the financial advisors and firms selling them.[15] For years, financial advisors have presented themselves in their advertisements and on their websites as trusted counselors and advisors, yet disclaim such a relationship of trust exists when there is any attempt to hold the advisors accountable for their actions.[16] Yet, now, we are to believe that financial advisors and their firms will voluntarily act in the best interests of their clients, notwithstanding that there is no incentive to do so.

The PTEs are of vital importance today because IRAs and 401(k) and 403(b) retirement plans have become the primary tool for retirement planning and savings for millions of working Americans. Pensions have become rare, making retirement investors more responsible for ensuring they have the necessary funds to support themselves in retirement. One-time transactions like rollovers will involve *trillions* of dollars over the next five years and are often among the most significant financial decisions families will ever make.[17] As funds are rolled into IRAs from workplace retirement plans, investors will seek guidance and advice from financial advisors.

If the PTEs are not permitted to be fully implemented on January 1, 2018, retirement investors will continue to be harmed by the same conflicts of interests that made the Rule and PTEs necessary in the first place. Retirement investors seek help to manage their funds because they are unable to navigate the complex financial services market alone. They expect that they will receive appropriate advice, and that if something goes wrong, they will have some way to try to make it right. Further delaying the key investor protections within the PTEs will remove these protections, leaving retirement investors with little more than a misplaced hope that their financial advisor is acting in their best interests. PIABA has previously provided multiple stories of retirement investors who have been harmed under the prior standards.[18]

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[14] *Id.* at 21003, 21004.

[15] *See* Benjamin P. Edwards, *Conflicts & Capital Allocation*, 78 OHIO ST. L.J. 181, 199 (2017) (pointing out that the current distribution of financial products is better explained by financial adviser preferences than investor preferences).

[16] *See*, PIABA Report, *Major Investor Losses Due to Conflicted Advice: Brokerage Industry Advertising Creates the Illusion of a Fiduciary Duty; Misleading Ads Fuel Confusion, Underscore Need for Fiduciary Standard* (March 25, 2015) ("PIABA Report"), available at https://piaba.org/system/files/pdfs/PIABA%20Conflicted%20Advice%20Report.pdf; *see also*, Consumer Federation of America & Americans for Financial Reform, *Financial Advisor or Investment Salesperson? Brokers and Insurers Want to Have it Both Ways* (Jan. 18, 2017), available at http://ourfinancialsecurity.org/wp-content/uploads/2017/01/Financial-Advisor-or-Investment-Salesperson.pdf.

[17] "Rollovers" are expected to approach $2.4 trillion cumulatively from 2016 through 2020. *See*, RIA, *supra* n. 14.

[18] *See*, PIABA, *Comment Letter to the Dep't of Labor* (July 21, 2015), available at https://piaba.org/system/files/comment_letter_pdfs/DOL%20Best%20Interest%20Rule%20Comment,%20RIN%

Firms are capable of fully complying with the PTEs

Some firms have already begun making changes necessary to comply with the existing Rule and PTEs.[19] In examining the efforts made to date by the industry, a report by Consumer Federation of America determined that:

(i) the DOL rule is already eliminating the most harmful conflicts associated with commission-based advice without eliminating access to commission-based advice;
(ii) despite dire predictions to the contrary, most firms are continuing to offer commission-based retirement investment advice; and,
(iii) far from driving up investors' costs, the rule is already responsible for significant cost reductions.[20]

Moreover, in a recent letter by Senator Warren to the Department, the Senator demonstrated that a number of firms have reassured their shareholders that they are capable of full compliance with the Rule, and that the Rule is consistent with the firms' goals of putting their clients' interests before their own.[21]

The financial industry has engaged in a systematic game of "Chicken Little," claiming the sky will fall if they are required to adhere to the full provisions of the PTEs. By claiming firms cannot do business with small investors while simultaneously complying with the provisions of the PTEs, firms are saying that they are incapable of acting in the best interests of their smaller

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201210-AB32%20(July%2021,%202015).pdf; PIABA, *Comment Letter to the Dep't of Labor* (Sept. 24, 2015), available at https://piaba.org/system/files/comment_letter_pdfs/DOL%20Best%20Interest%20Rule%20Comment,%20RIN%201210-AB32%20(September%2024,%202015).pdf; PIABA, *Comment Letter to the Dep't of Labor* (Mar. 17, 2017), available at https://piaba.org/system/files/comment_letter_pdfs/DOL%20Comment%20Letter,%20RIN%201210-AB79%20(March%2017,%202017).pdf; and Joseph Peiffer, *Statement for the Record Submitted to the United States Department of Labor Employee Benefits Security Administration On Conflict of Interest Proposed Rule Public Hearing* (Aug. 11, 2015), available at https://piaba.org/piaba-newsroom/congressional-testimony-statement-record-submitted-united-states-department-labor-emp.

[19] See, e.g., Merrill Lynch tweet (Nov. 10, 2016) ("We're committed to a higher standard for retirement accounts. We view the Department of Labor Fiduciary Rule as a positive step for the industry and great news for investors. We support it wholeheartedly."), available at https://t.co/OMw73LvR6d; Morgan Stanley Press Release, *Morgan Stanley to Preserve Client Choice for Retirement Accounts* (Oct. 26, 2016) ("Morgan Stanley's core values of putting clients first and doing the right thing are behind our plan for implementing the Department of Labor's upcoming fiduciary rule for retirement accounts. ...We believe our advisors can most effectively uphold a fiduciary standard of care and work in clients' best interests by continuing to offer choice."), available at https://www.morganstanley.com/press-releases/morgan-stanley-to-preserve-client-choice-for-retirement-accounts; Morgan Stanley article, *Morgan Stanley Preserves Client Choice in Response to DOL Rule* (Oct. 26, 2016) ("Moving forward, our clients will continue to have access to commission-based retirement brokerage accounts with recommendations from us that will be consistent with the DOL Fiduciary Rule and Best Interest Contract Exemption...Morgan Stanley...will also offer clients the choice of fee-based retirement account arrangements."), available at http://www.morganstanley.com/articles/DOL-fiduciary-rule; Consumer Federation of America, *The Department of Labor Conflict of Interest Rule is Already Delivering Benefits to Workers and Retirees: Delay Puts Those Benefits at Risk* (Jan. 31, 2017) ("CFA Report"), available at http://consumerfed.org/wp-content/uploads/2017/01/1-31-17-DOL-Rule-Delivering-Benefits_Fact-Sheet.pdf.

[20] CFA Report, *supra* n. 30.

[21] *See*, Senator Warren to the Dep't of Labor (Sept. 5, 2017), available at https://www.warren.senate.gov/files/documents/2017_09_05_Letter_to_Acosta_Fiduciary_Rule.pdf.

clients. SIFMA vaguely points to an increase in orphaned accounts, notwithstanding that firms are only obligated to adhere to the Impartial Conduct Standards.[22] Are investors to be forced to choose between conflicted advice, and no advice? If only conflicted advice is available, it may not be any good. Some research indicates that investors would be better served by no advice than by conflicted advice.[23]

Complying with the PTEs should not hamper a firm's ability to do business. Several states have long considered brokers fiduciaries under state common law.[24] Firms operating in those states continue to offer the same levels of advice and continue to do business. They have not closed shop because of the potential litigation consequences of being held to a fiduciary standard. A 2012 study found that there is no statistically significant increase in compliance costs in states in which there is a clear fiduciary standard and ones in which there is no fiduciary standard.[25]

Moreover, there is ample evidence that investors will continue to have access to advice, whether their accounts are large or small. Many of the large brokerage firms will continue to offer commission-based alternatives for their clients, including Merrill Lynch, Morgan Stanley, Wells Fargo Advisors, LPL Financial, Raymond James, UBS and Edward Jones.[26] Some firms will offer primarily fee-based accounts, but will offer self-directed accounts and the use of robo-advisers for those investors who want to pay transaction based fees.[27] Some firms are tweaking their existing options to ensure compliance with the Rule's requirements, by changing account minimums and fees.[28] Some firms are incorporating the option of robo-advice more broadly for retirement accounts.[29] UBS has announced it will shift how it compensates advisors to mitigate conflicts of interest rather than changing what it offers investors.[30]

The vast majority of brokerage firms and financial advisors have stated, without equivocation, that they will continue to offer the full panoply of financial products to small investors. For example, Morgan Stanley announced that its transaction based retirement brokerage accounts will continue to offer a broad array of products, including, but not limited to,

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[22] *See*, SIFMA, "The DOL Fiduciary Rule: A Study on how financial institutions have responded and the resulting impacts on retirement investors," *Deloitte* (Aug. 9, 2017), available at https://www.sifma.org/wp-content/uploads/2017/08/Deloitte-White-Paper-on-the-DOL-Fiduciary-Rule-August-2017.pdf.
[23] *See generally* John Chalmers & Jonathan Reuter, *Is Conflicted Investment Advice Better Than No Advice?* (Nat'l Bureau of Econ. Research, Working Paper No. 18158, 2012), http://www.nber.org/papers/w18158.
[24] *See*, e.g. California, Georgia, Florida, Missouri, Puerto Rico, South Carolina, and South Dakota.
[25] *See*, Michael Finke and Thomas P. Langdon, *The Impact of the Broker-Dealer Fiduciary Standard on Financial Advice* (Mar. 9, 2012), available at https://www.onefpa.org/journal/Pages/The%20Impact%20of%20the%20Broker-Dealer%20Fiduciary%20Standard%20on%20Financial%20Advice.aspx.
[26] Michael Wursthorn, *A Guide to Brokers' Retirement-Account Plans*, Wall Street Journal (May 23, 2017), available at https://www.wsj.com/articles/a-guide-to-brokers-retirement-account-plans-1495558474?tesla=y&mg=prod/accounts-wsj.
[27] E.g., Merrill Lynch and JP Morgan Chase. *See id.*
[28] E.g., Morgan Stanley, Wells Fargo, LPL Financial, Raymond James, and Edward Jones. *See id.*
[29] E.g., Wells Fargo, LPL Financial, and Raymond James. *See id.*
[30] Bruce Kelly, *UBS latest to shift broker compensation ahead of DOL fiduciary rule*, Investment News (June 2, 2017), available at http://www.investmentnews.com/article/20170602/FREE/170609979/ubs-latest-to-shift-broker-compensation-ahead-of-dol-fiduciary-rule.

mutual funds and exchange traded products.[31] Similarly, Raymond James has announced that it fully expects to continue to offer a full range of investment options for all of its clients.[32] Likewise, Edward Jones customers who utilize its transaction based IRAs will be able to invest in a full range of stocks, bonds, certificates of deposits, and variable annuities.[33] A recent survey of representatives affiliated with 14 major independent brokerage firms found that 74% of such advisors/brokerage firms have not reduced the number of products that were available to their transaction – based customers as a result of the Rule.[34] These same representatives reported that, while they are acting as fiduciaries, much of their business remains transaction based and therefore available to small investors.[35]

Several brokerage firms have also reduced their fees for small investors and/or account minimums, in response to the Rule. As a result, the Rule has benefitted small investors by providing them with lower fees, and access to services and accounts, which they did not previously have. For example, Merrill Lynch is discounting fees for IRA accounts that are moved over to an advisory relationship in order to equalize the fee level for its low trading brokerage customers.[36] Edward Jones will be reducing the minimum on its fee-based accounts to $25,000 for clients who want to purchase stocks, mutual funds, or exchange traded funds, and to $50,000 for clients who want to purchase individual bonds.[37] In addition, Edward Jones will continue to have a minimum investment requirement of $5,000 for its Guided Solutions Fund Account.[38] Similarly, LPL Financial has announced that it will be reducing the account minimum for its Optimum Market Portfolios from $15,000 to $10,000.[39] Charles Schwab has also recently announced that it plans to launch a new advisory service in the first half of 2017 that will have an investment minimum of $25,000, but will offer comprehensive financial and investment planning, ongoing guidance from planning consultants, and fully automated and diversified

[31] Morgan Stanley Press Release, *Morgan Stanley to Preserve Client Choice for Retirement Accounts* (Oct. 26, 2016), available at https://www.morganstanley.com/press-releases/morgan-stanley-to-preserve-client-choice-for-retirement-accounts.
[32] Andrew Welsch, *Raymond James Follows Morgan's Lead in Keeping Commissions Under Fiduciary Rule*, OnWallStreet.com (Oct. 27, 2016), available at https://www.onwallstreet.com/news/raymond-james-follows-morgans-lead-in-keeping-commissions-under-dol.
[33] Andrew Welsch, *Fiduciary Ready: Edward Jones Unveils Compliance Plans*, OnWallStreet.com (Aug. 19, 2016), available at https://www.onwallstreet.com/news/fiduciary-ready-edward-jones-unveils-compliance-plans.
[34] Diana Britton, *Delay or not IBDs Moving Toward a Fiduciary Future*, WealthManagement.com (Apr. 5, 2017), available at http://www.wealthmanagement.com/industry/delay-or-not-ibds-moving-toward-fiduciary-future.
[35] *Id.*
[36] Greg Iacurci & Christine Idzelis, *Broker-dealer Split on Commissions in Wake of DOL Fiduciary Rule*, Investment News (Oct. 30, 2016), available at http://www.investmentnews.com/article/20161030/FREE/161029902/broker-dealers-split-on-commissions-in-wake-of-dol-fiduciary-rule.
[37] Welsch, *supra* note 71.
[38] *Id.*
[39] Janet Levaux, *LPL Cuts Prices, Account Minimums Ahead of DOL Fiduciary Rule*, ThinkAdvisor.com (Mar. 16, 2016), available at http://www.thinkadvisor.com/2016/03/16/lpl-cuts-prices-account-minimums-ahead-of-dol-fidu.

portfolios comprised of low-cost, exchange traded funds from Schwab and third-party providers such as Vanguard.[40]

A recent study of representatives affiliated with 14 of the largest independent brokerage firms reflects that 74% of such advisors/firms will continue to allow commission-based transactions in retirement accounts.[41] These representatives reported that they believe that they can operate in the best interest of their clients, while still offering commission-based products.[42]

Conclusion

Further delaying the full implementation of the PTEs will continue to cost investors their hard earned retirement money. SaveOurRetirement.com estimates that retirement savers lose between $57 million and $117 million every day due to conflicted investment advice, amounting to at least $21 billion annually.[43] This coheres with the Council of Economic Advisers estimate that Americans suffer $17 billion in losses annually due to conflicted advice they receive from financial advisors.[44] The Economic Policy Institute estimates that a further delay of the PTEs will cost retirement saves $10.9 billion over the next 30 years.[45] It is essential that there be full implementation of the PTEs to ensure that firms are not diverting funds from retirement investors due to their improper and overreaching conflicts of interest.

When the Department first enacted the Rule and PTEs, it justified the need the for the Rule and its implementation period, which contemplates the remaining conditions of the PTEs becoming effective in January 2018. Nothing has changed which would justify a reconsideration at this time. The Department also pointed out that full compliance with the Rule and PTEs would cost the industry $16 billion over ten years.[46] Conversely, full implementation of the Rule and PTEs may reduce the costs borne by investors due to conflicted advice by between $33 billion and $36 billion.[47] Consequentially, neither the industry nor the Department can justify further delay of the full implantation of the Rule and PTEs.

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[40] Charles Schwab Press Release, *Schwab Announces Schwab Intelligent Advisory* (Dec. 13, 2016), available at http://pressroom.aboutschwab.com/press-release/schwab-investor-services-news/schwab-announces-schwab-intelligent-advisory.

[41] Britton, *supra* note 72.

[42] *Id.*

[43] *See*, Save our Retirement, *Comment Letter to the Dep't of Labor* (May 8, 2015), available at http://saveourretirement.com/cms/wp-content/uploads/2015/02/DOL-SOR-Letter-Comment-Period-Request-5-8-15.pdf.

[44] *See*, White House Council of Economic Advisers, *The Effects of Conflicted Investment Advice on Retirement Savings*, *supra* n. 23. "Conflicted advice" refers to advice given on particular investment products where the financial advisor is compensated in fees and commissions that depend on which investment product the customers buys.

[45] *See*, Economic Policy Institute, "DOL proposes 18 month delay of full implementation of fiduciary rule, setting the stage for retirement savers to lose $10.9 billion" (Aug. 30, 2017), available at http://www.epi.org/press/stage-is-set-for-retirement-savers-to-lose-10-9-billion/.

[46] *Id.*

[47] Proposal for Delay, *supra* n. 1.

Accordingly, the Department should proceed with the applicability timeline set forth in the Rule and PTEs and ensure that investors are protected.

Very truly yours,

Marnie C. Lambert
PIABA President