CFA Institute

915 East High Street
Charlottesville, VA
22902-4868 USA

+1 (434) 951 5499 tel
+1 (434) 951 5262 fax
info@cfainstitute.org
www.cfainstitute.org

17 March 2017

Office of Regulations and Interpretations
Employee Benefits Security Administration
Attn: Conflict of Interest Rule
Room N-5655
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Re: 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 (RIN 1210-AB79)

Dear Sir or Madam:

CFA Institute[1] appreciates the opportunity to provide comments to the Department of Labor (DOL) on the proposed extension (the "Proposal") of the applicability date for its adopted rule, "Definition of the Term 'Fiduciary:' Conflict of Interest Rule—Retirement Investment Advice" (the "Rule") to 9 June 2017 from 10 April. CFA Institute represents the views of those investment professionals who are its members before standard setters, regulatory authorities, and legislative bodies worldwide on issues that affect the practice of financial analysis and investment management, education and licensing requirements for investment professionals, and on issues that affect the efficiency, integrity and accountability of global financial markets.

CFA Institute recognizes the challenges the DOL faces in addressing the directives presented in the Trump Administration's 3 February 2017 Memorandum (the "Memorandum") and balancing the costs of delaying the Rule's applicability date. We strongly believe that investment advice providers should put the interests of their clients before their own, and thus support the aim of the Rule. We see the Rule ensuring clients' interests are put first and that they receive advice that is impartial, transparent, and allows them to make reasoned decisions about investments and their service providers. Our support of the Rule, while tempered by our concerns about its

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[1] CFA Institute is a global, not-for-profit professional association of nearly 146,400 investment analysts, advisers, portfolio managers, and other investment professionals in 163 countries and territories, of which more than 140,000 hold the Chartered Financial Analyst® (CFA®) designation. The CFA Institute membership also includes 147 member societies in 73 countries and territories.

complexity, is anchored in the belief that requiring a higher standard of care among those providing personalized investment advice is long overdue.

While we had hoped that the Securities and Exchange Commission (the "SEC") would have taken the lead in creating a best-interest standard for all advice providers to retail investors, it has yet to do so and has not indicated an intent to do so soon. Consequently, the Rule that the DOL has put in place is, despite its flaws, a much-needed step in the right direction for retirement investors.

It is, therefore, with great concern, that we object to delaying implementation of the Rule, at least until the SEC has enacted its own best-interests rule. We believe doing so without an SEC rule in place will void meaningful protections for the interests of this vast and, in many cases, vulnerable sector of investors.

We also find noteworthy the Proposal's recognition of the costs to investors from delaying implementation of the Rule, namely: "the potential for retirement investor losses from delaying the application of fiduciary standards to their advisers." The Proposal's discussion of potential negatives from delay includes losses to investors "who follow affected recommendations, and these losses could continue to accrue until affected investors withdraw affected funds or reinvest them pursuant to new recommendations." This statement, the Proposal says, is based on "empirical evidence that front-end load mutual funds that share more of the load with distributing brokers attract more flows but perform worse."

The Proposal also notes other areas that could create investor losses. These include potential conflicts like "revenue sharing, or mark-ups in principal transactions, other effects of conflicts such as excessive or poorly timed trading, and other market segments susceptible to conflicts such as annuity sales to IRA investors and advice rendered to ERISA-covered plan participants or sponsors." Again, these compensation arrangements, transactions, conflicts, activities and investment instruments all raise questions about whether the investment firms selling these types of products and services have the best interests of their clients in mind.

While we appreciate that the DOL seeks to limit costs through a shorter delay (reasoning that a 180-day delay, for instance, would result in greater losses for investors and of compliance burdens for the industry), we believe the recognition of any loss to investors stemming from a delay further proves the point for why the Rule was adopted in the first place.

Conclusion

We appreciate that the Proposal is attempting to apply the directives mandated by the Memorandum, and that the DOL has concluded that a 60-day delay in implementation of the Rule is needed to address the issues the Memorandum raises. We hope the delay is primarily a mechanism by which the DOL will conduct the review the Administration has directed it to perform. Given the fundamental importance to investors of being able to rely on advice that has investors' best interests in mind, we encourage prompt and conclusive action to address any additional analysis directed by the Administration and to then bring this Rule into full effect, at least until the SEC has enacted its own best-interests rule. We believe further delay without an SEC rule in place will void meaningful protections for the interests of the vast and, in many cases, vulnerable sector of retirement investors, and would be a regrettable step backwards for the investing public, in general.

Should you have any questions about our positions, please do not hesitate to contact Kurt N. Schacht, CFA at kurt.schacht@cfainstitute.org or 212.756.7728; or Linda Rittenhouse at linda.rittenhouse@cfainstitute.org or 434.951.5333.

Sincerely,

/s/ Kurt N. Schacht

Kurt N. Schacht, CFA
Managing Director, Standards and Financial Market Integrity
CFA Institute

/s/ Linda Rittenhouse

Linda L. Rittenhouse
Director, Capital Markets Policy
CFA Institute