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Employee Benefits Security Administration  
Attn: D-11712, 11713, 11850  
U.S. Department of Labor  
200 Constitution Avenue NW, Suite 400  
Washington, DC 20210

*Re: Comments in Response to DOL Proposal to Extend Transition Period and Delay  
Applicability Dates; RIN 1210-AB82*

Ladies & Gentlemen:

Thank you for the opportunity to comment on the Department of Labor's ("Department") proposal to extend the special transition period ("Proposal") under sections II and IX of the Best Interest Contract Exemption ("PTE 2016-01") and section VII of the Class Exemption for Principal Transactions in Certain Assets Between Investment Advice Fiduciaries and Employee Benefits Plans and IRAs ("PTE 2016-02"), and to delay the applicability of certain amendments to Prohibited Transaction Exemption 84-24 ("PTE 84-24") for the same period.

For the reasons stated below, Pacific Life Insurance Company ("Pacific Life") supports the Department's decision to extend the transition period and delay applicability dates ("delay") and respectfully recommends that the Department delay to July 1, 2019 as stated in the Proposal.

***A Delay Is Necessary for the Department to Properly Review and Update the Rule and Exemptions and for the Industry to Avoid Unnecessary Costs***

A delay will pave the way for the Department to conduct a thorough review of the Fiduciary Rule ("Rule") and better understand the true costs and benefits in order to prevent significant and material harm to both regulated parties and American retirement investors. As noted below, Pacific Life agrees with certain observations made by the Department tied to the Request for Information dated July 6, 2017 ("RFI") that necessitates the proposed delay.

*I. The benefit of the delay would outweigh the costs*

Investor losses from the delay to the Rule could be relatively small, due in large part to the implementation of the Impartial Conduct Standards on June 9, 2017.<sup>1</sup> Since advisers are now required to adhere to the requirements set forth in the Impartial Conduct Standards – requiring them to act in their clients’ best interest, avoid misleading statements, and charge no more than reasonable compensation for their services - the Rule’s stated goal to eliminate conflicted advice has been largely addressed and procedures to avoid said conflicted advice will be thoroughly engrained in advisers’ practices during the delay.

Without the delay, investor access to valuable advice, tools, and products to properly plan for retirement is in jeopardy during hastened compliance time frames. For example, confusion in the marketplace, uneven analysis and implementation across the industry, and repurposing significant resources toward building effective compliance programs adds unnecessary costs and reduces customer service levels. Delaying the Rule would allow firms to not only avoid full compliance with a rule that could change, but would give the entire industry adequate time to assess, develop, and implement orderly processes and procedures to comply with the revised final rule.

*II. A delay would give the Department more time for review and coordination*

The preamble to the RFI clearly states that, concurrent with the ongoing Department review of the Rule as directed by the Presidential Memorandum dated February 3, 2017 (“Presidential Memorandum”), the Department is “seek[ing] public input that could form the basis for new exemptions or changes/revisions” to the Rule. A delay would give the Department more time to properly gather, analyze, and integrate said information obtained through public input.

Furthermore, Department Secretary Acosta has publicly acknowledged that the Securities and Exchange Commission (“SEC”) has critical expertise regarding the regulation of financial professionals, and encouraged the SEC to be a full participant as the Department considers possible revisions to the Rule. SEC Chairman Clayton subsequently issued a public statement in which he accepted the invitation to participate in assisting with any Rule revisions, and has also asked for public comments to help the SEC evaluate the range of potential regulatory actions. Meaningful coordination will take time and should not be approached hastily in order to comply with artificial deadlines that will cause consumer harm, further increase costs, and create uncertainty in the marketplace.

**What Type of Delay Should Be Enacted?**

The Department stated that the “objective is to complete its review pursuant to the President’s Memorandum, analyze comments received in response to the RFI, and propose and finalize any changes to the Rule or PTEs sufficiently before July 1, 2019, to provide firms with enough time

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<sup>1</sup> 82 Fed. Reg. 41372 (Aug. 31, 2017)

to design and implement an orderly transition process.”<sup>2</sup> If this can be achieved, our preference will be the time-certain approach.

In addition to the time-certain approach being proposed, the Proposal asked for comments regarding different methods of delay. There are many factors that should be weighed for each delay methodology; Pacific Life’s view for each potential approach are outlined below.

*I. Time-Certain Delay*

Pacific Life supports the Department’s proposed delay to July 1, 2019 (18 months beyond the original date of January 1, 2018), but not without hesitation. We are concerned that we do not know when the Department will take final action on the Rule and whether there will be enough time thereafter to address whatever changes regulated parties will need to implement. As noted within the Proposal, the Department itself is uncertain as to what changes will be made and when a revised final rule will be issued when it states “...whether, and to what extent, there will be changes to the Fiduciary Rule and PTEs as a result of this reexamination is unknown until [the commentary review’s] completion.”<sup>3</sup> With such uncertainty, it is difficult to fully support a delay to a specific date.

If the Department feels that July 1, 2019 will provide the Department sufficient time to thoroughly review the Rule as directed by the Presidential Memorandum dated February 3, 2017, collect and review public input, and coordinate review efforts with other regulatory agencies (e.g., SEC, FINRA, and the states), while still affording regulated parties adequate time to assess, develop, and implement processes and procedures to comply with the revised final rule, Pacific Life will support said delay.

*II. Specified Period After Certain Action on the Part of the Department*

Alternatively, the Department can decide to delay until a specified period has elapsed after a certain action on the part of the Department (e.g., issuance of a final Rule). This would ensure that, regardless of when final action is taken by the Department, regulated parties should have sufficient time to assess, develop, and implement processes and procedures to comply with the revised final rule.

However, the concern outlined by the Department in the Proposal, and shared by Pacific Life, is that this type of delay would provide insufficient certainty to consumers and regulated parties who are working to comply with the full range of conditions under the Rule. Without a specific implementation date for the revised final rule (even if flexible), regulated parties may find it difficult to allocate resources and outline timelines for a seamless execution of the changes the revised final rule will require.

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<sup>2</sup> 82 Fed. Reg. 41372 (Aug. 31, 2017)

<sup>3</sup> 82 Fed. Reg. 41371 (Aug. 31, 2017)

*III. Tiered Approach*

In Pacific Life's Comment Letter dated July 20, 2017, Pacific Life recommended what the Department characterized in the Proposal as a "tiered-approach." This was due, in large part, to Pacific Life's concern that review and coordination efforts that will result in the revised final rule could take longer than the Department currently expects.

But, as stated above with the "Specified Period After Certain Action on the Part of the Department" approach, there is a looming concern of uncertainty to both consumers and regulated parties when an unspecified date is used in determining the timeframe of the delay. Therefore, if the Department retains flexibility in this delay, potentially revisiting when the revised final rule is released and changes are actually known, then Pacific Life does not feel the tiered-approach is a necessary method of delay.

**Conclusion**

Regardless of the method of delay chosen by the Department, the financial industry pleads that the decision to delay be made swiftly, as the longer our industry and the clients we serve sit in uncertainty, the more wasted time and resources will be dedicated to preparing for a rule that quite possibly will change.

Pacific Life joins the American Council of Life Insurers, the Investment Company Institute, the Insured Retirement Institute, the U.S. Chamber of Commerce, and the Committee of Annuity Insurers in supporting a full and comprehensive review of the Rule. In order for us to achieve our shared goal for American retirement investors to save for a secure retirement, and receive advice that is in their best interest, we firmly believe it is in everyone's best interest to get the Rule and implementation done correctly to minimize market disruption and ongoing consumer confusion.

Sincerely,



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