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March 14, 2017

VIA EMAIL
Employee Benefits Security Administration
Office of Regulations and Interpretations
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, D.C. 20210
EBSA.FiduciaryRuleExamination@dol.gov (Subject: RIN 1210-AB-79)

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 2016-01); Prohibited Transaction Exemptions 75-1, 77-4, 80-83, 84-24, and 86-128 (RIN 1210-AB-79)

Ladies and Gentlemen:

On behalf of Western & Southern Financial Group, Inc. ("W&SFG")[1] and its subsidiaries, we appreciate the opportunity to offer comments on the proposal to extend, for 60 days (the "Proposal"), the April 10, 2017 applicability date of the final *Definition of the Term "Fiduciary"; Conflict of Interest Rule–Retirement Investment Advice*, published in the *Federal Register* on April 8, 2016, and associated prohibited transaction exemptions (collectively, the "Fiduciary Regulation").

W&SFG unequivocally supports the Proposal. As discussed below, the Department of Labor ("DOL") should adopt the Proposal and extend the applicability date for at least 60 days for three reasons. First, significant questions of law and policy exist with respect to the Fiduciary Regulation – including whether the Fiduciary Regulation will have the unintended consequence of harming retirement investors – and the extension will permit the DOL to review this significant regulation in accordance with President Trump's February 3, 2017 memorandum (the "President's Memorandum"). Second, the extension is absolutely necessary. The implementation period was inadequate, as the Fiduciary Regulation requires sweeping changes to business processes, operations and information technology. Third, the extension will

[1] WSFG is wholly owned by Western & Southern Mutual Holding Company, a mutual insurance holding company. W&SFG is a Fortune 500, diversified, and customer-oriented family of companies, as well as a nationally recognized leader in consumer and business financial services. W&SFG and its subsidiaries manufacture a diverse array of products, including a variety of life insurance products, annuities, mutual funds, and private funds. In addition, our companies distribute these products to consumers through a variety of distribution models, including a captive sales force, intermediaries such as banks, broker-dealers, and insurance marketing organizations, and independent agents that are often small business owners.

prevent "the risk and expenses" of "two major changes in the regulatory environment" that could result if the Proposal is not adopted and the applicability date is not extended.[2]

1. Additional Time is Necessary to Review the Fiduciary Regulation

While W&SFG agrees that plan sponsors, plan participants, and IRA owners should receive investment advice that is in their best interest and will help them achieve lifetime financial security, we strongly believe the Fiduciary Regulation will have the unintended result of reducing access to much needed investment advice, retirement benefit coverage, guaranteed lifetime income products, and investment education. While these unintended negative consequences will affect all Americans investing for retirement, we believe the negative effects will be most acute for consumers with middle to small asset size retirement accounts and plans, a primary client base of W&SFG.

With those concerns in mind, we strongly support extending the applicability date in order to review the important questions posed in the President's Memorandum, including whether the Fiduciary Regulation "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" or "is likely to cause an increase in litigation, and an increase in the prices that investors and retirees must pay to gain access to retirement services."

2. Additional Time is Necessary to Implement The Fiduciary Regulation

Adopting the Proposal and extending the applicability date will permit the industry to fully complete implementation efforts in a cost-effective and efficient manner. When the Fiduciary Regulation was proposed, W&SFG requested three years to build or update information technology systems, train thousands of employees and agents, create new documentation, and develop and modify new and existing compliance programs and supervisory systems. If the applicability date is not extended, we will be prepared to comply with the Fiduciary Regulation, however, the additional time will allow for fuller and more efficient automation of applicable processes.

3. Additional Time is Necessary to Avoid Multiple Regulatory Changes

Finally, and importantly, an adoption of the Proposal and the related extension will prevent multiple regulatory changes that could confuse consumers and result in unnecessary and duplicative costs and expenses for all stakeholders. If the examination required by the President's Memorandum results in the rescission or revision of the Fiduciary Regulation and the applicability date is *not* extended, advisers, retirement investors and companies like W&SFG could "face two major changes in the regulatory environment rather than one," which "could unnecessarily disrupt the marketplace,

[2] 82 Federal Register 12320 (Mar. 2, 2017).

producing frictional costs that are not offset by commensurate benefits."[3] Indeed, at least two significant issues related to the Fiduciary Regulation remain outstanding and each warrants an extension of the applicability date: (1) the proposed Best Interest Contract Exemption for Insurance Intermediaries,[4] and (2) the request for comments on the substance of the Fiduciary Regulation (comments that are not due until April 17, *after* the applicability date). Multiple regulatory changes are likely to occur if the applicability date is not extended. This unnecessary result should be avoided.

Once again, W&SFG appreciates the opportunity to comment on the Proposal and its potential impacts to consumers. If you have any questions regarding our comments or if we can be of any assistance in your consideration of the issues discussed above, please contact Sarah Sparks Herron at 513-357-4055 or sarah.herron@westernsouthernlife.com or me. Thank you.

Sincerely,

Jonathan D. Niemeyer
Senior Vice President, Chief Administrative
Officer and General Counsel

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[3] 82 Federal Register 12320 (Mar. 2, 2017).
[4] 82 Federal Register 7336 (Jan. 19, 2017).