

March 17, 2017

The Office of Regulations and Interpretations
Employee Benefits Security Administration
Attn: Proposed Definition of Fiduciary Regulation
U.S. Department of Labor
200 Constitution Avenue, N.W. Room N-5655
Washington, DC 20210

Re: RIN 1210-AB79

Ladies and Gentlemen:

E*TRADE Financial Corporation (“E*TRADE”) appreciates the opportunity to provide comments regarding the Department of Labor’s (“Department”) proposed delay (the “Proposal”) in the applicability date of the regulation under the Employee Retirement Income Security Act of 1974, as amended (“ERISA”) that redefines the term “fiduciary” under section 3(21) of ERISA and section 4975(e) of the Internal Revenue Code of 1986, as amended (the “Code”), and in the applicability dates of the exemptions granted with the final rule. We hope that our comments are helpful in informing the Department’s assessment of the Proposal and why the proposed 60 day delay is in the interest of retirement investors.

First, without hesitation we wholeheartedly support efforts to advance the best interests of our customers. We have participated in industry groups like the Securities Industry and Financial Markets Association (“SIFMA”) who have commented on the Proposal. We affirm those efforts in conjunction with our own.

We are actively involved in the IRA marketplace, including individual IRAs, IRA rollovers, and small business IRAs, and currently provide low cost custodial and brokerage services to over 900,000¹ retirement accounts, making us well-positioned to understand the impact of the Proposal.

We believe a delay is necessary to help our clients fully understand and be prepared for the changes they will experience as a result of the rule. We strongly believe that E*TRADE’s clients will be unnecessarily confused about our retirement services if changes we implement and announce are subsequently revisited or reversed in light of the President’s Memorandum dated February 3, 2017 (“President’s Memorandum”). We have spent significant time reviewing our business. We have been developing new policies and procedures as well as revising existing policies and procedures in order to abide by the significant requirements of the rule. In addition, the rule has necessitated the creation of new compliance and surveillance programs. Moreover, we have been drafting new client-facing materials and explanations of revised product offerings necessitated by the rule. All of these undertakings are significant, especially in light of the fact that the final rule was issued less than one year ago.

¹ Data as of December 31, 2016

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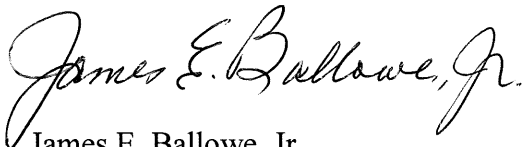
However, because of the uncertainty regarding this rule, and in particular the mandate ordered by the President's Memorandum, we have neither fully implemented all changes to product offerings nor communicated to clients all the ways in which the rule will affect the products and services available to them. The requirements of the rule should not be applicable until the mandated review by the President is fully completed, and the new Secretary of Labor determines whether rescission or revisions are required or appropriate in accordance with the President's mandate.

We strongly support a delay in the applicability date. None of E*TRADE's retirement investor clients will be well served if the fiduciary rule goes into effect before the clients have certainty on the regulations that govern the retirement products and services that are provided under the final rule. We urge you not to disrupt the services E*TRADE provides to retirement investors in this way.

Accordingly, we urge the Department to grant a 60 day delay by approving the Proposal as soon as possible, and to confirm that the delay will apply to all parts of the rule and related exemptions.

Thank you again for the opportunity to provide our comments on the Proposal.

Sincerely,

A handwritten signature in cursive script that reads "James E. Ballowe, Jr.".

James E. Ballowe, Jr.
Senior Vice President and Special Counsel, Brokerage
E*TRADE Financial Corporation