



March 17, 2017

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

Attention: Fiduciary Rule Examination

Re: Proposal to extend for 60 days the applicability date defining who is a “fiduciary” under the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code of 1986 (Code), and the applicability date of related prohibited transaction exemptions including the Best Interest Contract Exemption and amended prohibited transaction exemptions (collectively PTEs) to address questions of law and policy; Regulatory Identifier Number: 1210-AB79

To whom it may concern:

In response to the proposed 60-day extension of the fiduciary rule’s applicability date, NextCapital respectfully submits the following comments.

The financial services industry has worked for nearly two years to make the fiduciary standard a reality. Most firms have embraced the spirit of the fiduciary rule and are prepared to comply. We believe the consumer and industry will benefit from enacting the rule on the originally scheduled date of April 10th.

To ensure compliance with the standard, we agree with the U.S. Department of Labor’s recent policy of non-enforcement for a reasonable period—this mitigates uncertainty. Specifically, a reasonable approach to ensure industry compliance may be to extend non-enforcement policy of the pending fiduciary rule until December 31st, 2017, so that firms have sufficient time to comply with the new standards.

While any significant change in the status quo will undoubtedly be accompanied by “unintended consequences,” the industry is well-equipped to address changes and provide guidance to government partners.

In the past, Americans saved for retirement using a government pension plan or a company-sponsored defined benefit plan. Those days, however, are behind us. Today, the overwhelming responsibility of saving for retirement, and managing retirement assets, has been shifted to the individual and the financial professionals dedicated to serving retirement savers. Self-funded retirement savings now totals \$14 trillion in defined contribution and IRA assets. 88 million Americans are now defined contribution plan participants.

Much the way the Hippocratic Oath ensures alignment of interests between the health care professional and the patients under its care, now is the time to ensure that all retirement financial professionals are fully aligned with the interests of their clients. It is important that the financial services industry operates under the highest standard of care for the purposes of retirement investing. The need for the fiduciary standard is more acute than ever before as Americans live longer and the retirement income gap grows more severe.

Opponents of the fiduciary rule have argued that the rule will provide Americans with less access to quality advice at a higher cost. However, due to the pending implementation of the new rule and new technology-driven solutions, the opposite is happening. New tech-enabled solutions are driving high quality advice at a lower cost to more people. Based on our observation, the investment management firms are modifying their business models and rapidly adopting new innovative digital advice platforms to deliver improved retirement outcomes for ordinary Americans.

For these reasons, we urge the U.S. Department of Labor to: i) move forward with the April 10th applicability date, and ii) extend the non-enforcement period for nine months—ensuring full industry compliance.

NextCapital appreciates the opportunity to formally comment on this matter. If there are questions or more information is needed, I can be reached at rob@nextcapital.com.

Sincerely,

Rob Foregger
Co-Founder, NextCapital

