

Sorrento Pacific Financial, LLC

Via Electronic Mail to e-ORI@dol.gov

April 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: Department of Labor Review of Fiduciary Duty Rule

Ladies and Gentlemen:

We are contacting you on behalf of Sorrento Pacific Financial, LLC (“SPF”). We are pleased to have the opportunity to provide comments with respect Department of Labor’s (“Department”) review of the Fiduciary Duty Rule (the “Rule”).

SPF is a securities broker/dealer that is registered with the United States Securities and Exchange Commission (the “SEC”), the Financial Industry Regulatory Authority (“FINRA”), the Municipal Securities Rulemaking Board, all fifty (50) states, the District of Columbia, and Puerto Rico. SPF is also a SEC Registered Investment Adviser. Through financial networking arrangements, SPF provides non-deposit investment services to the customers of approximately 25 banks located throughout the United States.

As a provider of investment services, our goal is to act in the best interest of all clients irrespective of our status as a fiduciary. Currently, in addition to employing a robust supervisory system to ensure client recommendations are prudent and potential conflicts are disclosed, we provide fee and expense information to clients at the point of sale for their review and acknowledgment. Further, SPF fully supports regulations that protect and support investors. However, we believe that the Proposed Regulation makes it harder to provide retirement advice to all investors since it contains overly broad definitions making compliance with its terms unmanageable, imposes burdensome disclosures, significantly increases costs, restricts investment choices and potentially jeopardizes the relationship between clients and their financial advisor. In addition we believe that due to the increased liability to advisors under a fiduciary standard, many advisors will choose to work only with higher net worth investors where the potential for greater income may justify the additional risk they will incur. This will result in **small investors not being serviced**. We believe that investors will also have **far fewer choices** regarding investment products and services under the rule. Several national firms, including Merrill Lynch and Edward Jones have stated that they will no longer offer commission-based investments to their clients. Millions of “buy and hold” investors will either be forced into fee-based

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accounts, or will be ignored by their brokers who can no-longer receive commissions on those accounts and will be pressured to move them to fee-based accounts.

We believe that a revision of the Rule is necessary to avoid adverse impacts on Americans' access to retirement investment advice and assistance. We are deeply concerned that the Rule will cause significant harm to retirement investors by restricting their access to retirement investment advice and services, and so we strongly support the Department in undertaking this examination.

A revision is needed to:

- ***Prevent further harm to retirement investors.*** Registered investment advisers, broker-dealers and other financial institutions, including us, have worked hard to develop solutions that both comply with the Rule and continue to provide access to a wide variety of advice and financial products for retail retirement investors. But, as has been widely reported in the media, firms have generally found that product and service offerings must be reduced and limited to be able to continue to profitably service retirement investors while complying with the Rule. A revision or repeal would allow current product and service offerings to remain in place.
- Stop needless spending on the Rule's implementation. We have already spent significant sums and resources on complying with the Rule, and additional spending will be required to fully implement the Rule. As noted above, we believe that the Department will find that the Rule harms middle and lower income savers and that it should be rescinded or revised. These resources are better spent on developing products and services that benefit our clients, employees, and shareholders.
- Help firms develop better, compliant solutions to the Rule. Levelized compensation is a goal of the Rule, however solutions that are free of conflicts are extremely limited or unworkable. The simplest solution would be for firms to significantly reduce the available products that are offered to retirement investors. But this would result in limited choices for investors and would benefit no one. Given the complexity of this issue, a significant revision is called for.

We encourage the Department to rescind or revise the Rule without further delay.

We stress that investors, advisors, product providers and brokerage firms are in urgent need of certainty regarding the applicability of the Rule. As June 9th rapidly approaches, firms will imminently need to implement changes to their solutions and offerings, amend client agreements, , and communicate changes to advisors.

This complex regulation means more hurdles and compliance costs, and a greater likelihood of regulatory violations and/or lawsuits. Under this regulation, the smaller investor will become more expensive to serve, meaning that small investors may ultimately lose access to their advisors and

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disproportionately bear the costs of excessive regulation. Consequently, the DOL's Rule risks hurting the small investor and retired persons they are intending to protect.

We urge the DOL to expedite this review and to significantly revise, or provide an outright repeal of the Rule as quickly as possible.

On behalf of SPF, I thank you for considering these comments.

Sincerely,

Rick Dahl
Chief Compliance Officer
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