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VIA ELECTRONIC MAIL (EBSA.FiduciaryRuleExamination@dol.gov)

Employee Benefits Security Administration
Office of Exemption Determinations
U.S. Department of Labor
200 Constitution Avenue, NW
Suite 400
Washington, DC 20210

RE: RIN 1210-AB82: Request for Information Regarding the Fiduciary Rule and Prohibited Transaction Exemptions

To whom it may concern:

On July 6, 2017, the Department of Labor (“Department”) published a request for information (“RFI”) in connection with its examination of the final rule defining who is a “fiduciary” as a result of giving investment advice for a fee or other compensation with respect to assets of a plan or IRA (“Fiduciary Rule”). The RFI seeks public input regarding the advisability of extending the January 1, 2018 applicability date of certain provisions in the Fiduciary Rule and its accompanying exemptions, including the Best Interest Contract Exemption and Prohibited Transaction Exemption 84-24.

True Capital Advisors advocate a delay in the January 1, 2018 applicability date because we believe it will reduce burdens on financial services providers and benefit retirement investors by allowing for more efficient implementation responsive to recent market developments. Innovations in products and services are underway that create opportunities to simplify and streamline the regulatory requirements associated with the Fiduciary Rule and better accomplish its stated goals.

We agree with the Department that a delay to allow for further innovation will be beneficial; however, further delay beyond January 1, 2018 is needed to give these innovations sufficient time to be operationalized. Due to the sequential nature of the various intermediaries’ development of the necessary trading, surveillance, commission and other systems to support their use, it is doubtful that these changes can be fully operational for at least 18 – 24 months.

In addition, we believe efforts to coordinate the SEC and DOL’s regulatory efforts have the potential to reduce cost, preserve investor access to advice, and develop a more comprehensive Best Interest standard that will apply to financial advice rendered in connection with all investment assets of retirement savers, not just those that are tax qualified. Secretary Acosta recently told members of Congress that he has asked the new SEC

chair whether the SEC will work with the DOL on reviewing the Fiduciary Rule and that Chairman Clayton has indicated a willingness to do so.

We believe a delay of the Fiduciary Rule's full implementation would create an opportunity for meaningful discussions among the DOL, SEC, industry and investors about new approaches to achieve the DOL's goals without reducing investor access to retirement planning services.

Simply stated, we are concerned that the cost and other impacts of full implementation of the Fiduciary Rule will have significant negative consequences for investors who benefit from and value personal retirement planning services.

It is clear that the DOL, SEC, the industry and investors need more time to consider regulatory options and product innovations that may reduce costs and preserve investor access to retirement planning services while navigating any necessary changes through the Administrative Procedures Act's rulemaking process. This simply can't be completed by January 1, 2018; therefore, a delay is essential to protect investor access to retirement planning services.

Risks associated with additional delay are mitigated by existing regulatory structure and the applicability of the impartial conduct standards. Financial institutions' sale of retirement savings products is already heavily regulated. Broker-dealers and registered representatives are subject to comprehensive regulation and legal obligations under SEC and FINRA rules and regulations, as well as state securities laws, rules, and regulations. Registered Investment Advisers and investment advisor representatives are similarly regulated under SEC and state securities laws, rules and regulations. Under these rules, broker-dealers are required to deal fairly with their customers while investment advisers are subject to a fiduciary duty and extensive disclosure obligations.

Although broker-dealers are generally not subject to a fiduciary duty under the federal securities laws, courts have found broker-dealers to have a fiduciary duty in certain circumstances. These existing regulatory structures and access to the courts serve as an important and effective mechanism to protect retirement investors, and will remain operative should the Department choose to further delay the January 1, 2018 compliance deadline.

During the transition period from June 9, 2017, through January 1, 2018, financial institutions and financial advisors relying on the Best Interest Contract Exemption (BICE) must adhere to the Fiduciary Rule's Impartial Conduct Standards. These Impartial Conduct Standards require financial institutions and advisors to provide advice in the retirement investors' best interest, charge no more than reasonable compensation for their services and to avoid misleading statements.

In order to meet these standards, firms have already implemented many changes, including, changes to compensation structures, restrictions on the availability of certain investment products, improvements to due diligence review of products and service providers, enhancements to efforts to monitor the sales practices of affiliated financial advisors and the creation and maintenance of books and records sufficient to demonstrate compliance with the Impartial Conduct Standards.

Investors are already benefitting from stronger protections since the Fiduciary Rule became partly applicable on June 9, 2017. We believe any harm to investors caused by further delay of the additional requirements is greatly reduced by the application of the Fiduciary Rule's Impartial Conduct Standards and the existing regulatory structure.

A delay will be advantageous to advisers and investors. A delay during the Department's review will serve to minimize market disruptions caused by the changing regulatory structure. As a result of the Fiduciary Rule, firms are reviewing investment products and compensation structures and planning revisions designed to make it easier to comply with the Fiduciary Rule.

However, a delay will allow firms to avoid communicating one set of compliance policies, account minimums and other changes to investors that will have to be revised as a result of the possible changes to the final Fiduciary Rule. It is easy to see how the average client will be confused by correspondence announcing changes to their investment products and business relationship (if the Rule becomes applicable), followed by correspondence announcing additional changes being made for yet another new regulatory scheme (if the Rule is rescinded or revised).

As a result, we believe it is clear that a delay of the January 1, 2018 deadline is necessary to avoid customer confusion.

We support a carefully-crafted, universal fiduciary standard of care that will be applicable to all professionals providing personalized investment advice to retail clients. However, we do not support the Department's Fiduciary Rule as currently written.

The study of the Rule's impact required by the February 3, 2017, Presidential Memorandum, along with innovative product developments and renewed opportunity for the DOL and SEC to collaborate, provides an important opportunity to preserve investor access to these services. Therefore, we urge the DOL to delay the January 1, 2018 effective date to provide the time necessary to consider other options to achieve the DOL's goals while preserving investor access to retirement planning services.

Thank you for considering True Capital Advisors' comments. Should you have any questions, please contact me at 407-992-9200.

Respectfully,

Rebecca True, President