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July 17, 2017

Office of Exemption Determinations
Employee Benefits Security Administration
United States Department of Labor
200 Constitution Avenue NW, Suite 400
Washington, D.C. 20210

Attn: D-11933

VIA EMAIL: EBSA.FiduciaryRuleExamination@dol.gov

Re: RIN 1210-AB82
Comments in response to delay in January 1, 2018 Applicability Date

Dear Sir or Madam:

This letter is written on behalf of Asset Marketing Systems Insurance Services, LLC (hereinafter “Asset Marketing”), an Insurance Intermediary (“IMO”) based in San Diego, California. Asset Marketing is hereby providing its comments to the Department of Labor’s (“DOL” or “Department”) Request for Information Regarding the Fiduciary Rule and Prohibited Transaction Exemptions (“RFI”) as published in the Federal Register on July 6, 2017 (82 FR 31278).

The comments in this letter only address question 1 in the Department’s RFI: Whether the January 1, 2018 Applicability Date (“Applicability Date”) should be extended. 82 FR at 31279. The other questions in the Department’s RFI will be addressed in a separate letter at a later date.

Asset Marketing fully supports a delay in the Applicability Date for the following reasons, each of which will be discussed in detail in this letter:

1. The Department has not completed its review of the entire rule as mandated by the Presidential Memorandum of February 3, 2017;
2. The Department has not addressed the Proposed IMO Exemption since it was initially released on January 19, 2017;
3. The Department vastly underestimated the amount of time needed to fully develop and test new technology needed to fully comply with the Rule; and
4. The Department has created additional risks to both retirement investors and firms serving them by implementing a rule that lacks any real clarity and guidance.

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1. The Applicability Date should be delayed for a reasonable time after the Department has completed its review as mandated by the Presidential Memorandum.

As previously stated in our comment letter of April 17, 2017, Asset Marketing believes it is imperative that the Department take the time to review the Fiduciary Rule and respond to the Presidential Memorandum of February 3, 2017.

While the Department is undertaking its mandated review of the Rule, the life insurance industry remains in a state of limbo—especially as it relates to annuities, the 84-24 Exemption, and the Proposed IMO Exemption. There has been no guidance from the Department on when this mandated review will be completed and what, if any, modifications will be made to the Rule and/or its exemptions.

In granting the delay from the original applicability date of April 10, 2017, to June 9, 2017, the Department required compliance with the Impartial Conduct Standards during the transition period to the full Applicability Date of January 1, 2018. Asset Marketing, along with all the insurance carriers whose products it distributes, spent a considerable amount of time and effort to comply with the Impartial Conduct Standards as required on June 9, 2017. Planning is already underway to train the producers for the major changes coming on January 1, 2018, but with the potential for modifications to the Rule following the mandated review, it is imperative that the Department delay the Applicability Date for a reasonable time to ensure that any modifications can be implemented by the industry in a timely manner.

Furthermore, while making a good faith effort toward compliance, the insurance industry as a whole has taken a cautious approach to fully implementing changes required by the Applicability Date in light of the Presidential Memorandum; it is not likely to invest millions of additional dollars for compliance while the Rule is under review and potentially subject to change. As such, once the review has been completed and the final language of the Rule is determined it will take time for the industry to implement the required changes.

2. The Applicability Date should be delayed for a reasonable time after the Department has addressed the Proposed IMO Exemption.

The Department solicited comments on its Proposed IMO Exemption on January 19, 2017. Asset Marketing provided comments on this exemption in its letter of February 21, 2017, and several other IMOs and insurance carriers also provided substantive comments on why this Proposed IMO Exemption was impracticable and unworkable as drafted. Since the comment period closed, the Department has been silent on what, if anything, it plans to do with this proposed exemption.

As Asset Marketing noted in its comment letter on the Proposed IMO Exemption, many of the conditions the Department proposed would be difficult, if not impossible, to implement; others

are simply unworkable; and still others would set the bar so high that it would significantly reduce competition and thus harm retirement investors.

While Asset Marketing applauds the Department's effort to address a significant gap in the original Rule by submitting the Proposed IMO Exemption, the lack of action of any kind by the Department on this matter has created additional confusion in the industry since entities seeking to rely on this exemption for compliance with the Rule need time to build out additional systems and processes once the exemption is finalized. As such, the Department should delay the Applicability Date until a reasonable time after the Proposed IMO Exemption issue has been resolved.

3. The Applicability Date should be delayed for a reasonable time because the Department vastly underestimated the amount of time required to develop and test new systems for compliance with the Rule.

Under the Rule, the Department originally believed that 12 months was a reasonable amount of time to build out the technology systems required for compliance. By delaying the Applicability Date to January 1, 2018, the Department recognized that the original timetable was extremely aggressive and unworkable, despite the best efforts of many in the industry.

Some of the technology needed is just now starting to become available, but most of that technology is not focused on the insurance or annuity industry. And building out the technology in a way to comply with the Rule is nearly impossible given the lack of clarity or guidance from the Department.

It is imperative that a reasonable time be allowed to finalize the technology once the mandated review and all modifications, exemptions, etc., have been clarified and finalized.

4. The Applicability Date should be delayed for a reasonable time because the risks associated with implementing a partially developed Rule far outweigh any additional costs.

The risks associated with implementing a partially developed Rule with uncertain procedural requirements and outstanding questions will harm the very retirement investors the Rule seeks to protect. The Impartial Conduct Standards the Department put into effect on June 9, 2017, provide the transitional safeguards needed to protect retirement investors while the Department completes its mandated review and addresses the Proposed IMO Exemption. A rushed implementation will cause unnecessary market disruptions and confusion for retirement investors, insurance producers, registered representatives, adviser representatives, and firms alike.

Since the Impartial Conduct Standards are already in place, retirement investors are protected from conflicted advice. Any additional delay in the Applicability Date will actually benefit

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retirement investors. Compliance costs with respect to the Rule will ultimately be reflected in the cost of products and services available to the retirement investors. If firms, reps, representatives, advisors, and insurance producers are constantly incurring costs to comply with the ever-changing Rule, those costs are ultimately passed on to retirement investors, harming the very constituency the Rule seeks to protect.

CONCLUSION

Asset Marketing appreciates the opportunity to comment on the RFI and specifically the potential for a delay of the Applicability Date.

We respectfully request that the Department delay the January 1, 2018, Applicability Date for a reasonable time after 1) the Department has completed its mandated review of the Rule; and 2) the Department has modified or rescinded any provisions of the Rule and/or the exemptions or proposed exemptions. Such a delay is also necessary to allow sufficient time to build or modify systems and processes for compliance with any modifications to the Rule.

Please feel free to reach out to me with any questions, comments, or concerns.

Sincerely,

ASSET MARKETING SYSTEMS INSURANCE SERVICES, LLC



Jennifer K. Schendel
President & CEO