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Submitted by Email:
EBSA.FiduciaryRuleExamination @ dol.gov.

U.S. Department of Labor
200 Constitution Avenue N.W.
Washington, DC 20210

Re: EBSA RIN 1210-AB82
Extension of Applicability Date

Ladies and Gentlemen:

Prudential Financial, Inc. ("Prudential") appreciates the opportunity to comment on the need to extend the January 1, 2018 applicability date for the BIC Exemption, Principal Transaction Exemption and amendments to PTE 84-24.¹ Prudential is a leading provider of guaranteed lifetime income solutions both in defined contribution plans and Individual Retirement Arrangements ("IRAs"). As such, we support regulation that protects the interests of consumers and enables us to provide products that will meet their needs. Fundamentally, we believe that regulation should provide consumer protections while ensuring plan participants and IRA owners continue to have access to the quality products and services they need for a secure retirement.

Since the definition of "fiduciary" and the related prohibited transaction exemptions adopted by the Labor Department on April 8, 2016 (the "Rule")² were finalized last year, we have been actively working to meet our obligations under the Rule. These efforts have underscored for us, and we believe the financial services industry, the complexity of the Rule, the need for greater clarity in certain aspects of the Rule and the potential unintended consequences for plan participants and beneficiaries, IRA owners and plan fiduciaries. As such, it continues to be our view that the Rule presents significant obstacles to the intended goal of enhancing American's retirement security.

¹ See Request for Information Regarding the Fiduciary Rule and Prohibited Transaction Exemptions (82 Fed. Reg. 31279, July 6, 2017).

² 81 Fed. Reg. 20946

In brief, the definition of “fiduciary” is unnecessarily and inappropriately broad. Similarly, the exemptions are unnecessarily complex, burdensome, and costly and, ultimately, in the absence of significant changes, do not achieve the right balance between providing appropriate consumer protections and ensuring plan participants and beneficiaries, IRA owners and plan fiduciaries continue to have access to quality products and services they need for a secure retirement, thereby exacerbating the challenges already facing Americans as they prepare for their retirement years. Finally, as has been well-documented in comments to the Department, the regulatory impact analysis supporting the Rule is significantly flawed.³ In fact, the February 3, 2017 Presidential Memorandum to the Secretary of Labor on the Fiduciary Duty Rule directed the Secretary to prepare an updated economic and legal analysis concerning the likely impact of the Rule.

In light of the foregoing, we strongly support the Administration’s commitment to a comprehensive review of the Rule and exemptions and are encouraged by public statements by Secretary Acosta and SEC Chairman Clayton to engage in meaningful coordination of regulatory responsibilities in this area. In this regard, we are recommending a delay of the January 1, 2018 applicability date for compliance with all provisions of the prohibited transaction exemptions adopted or amended as part of the 2016 publication that are not currently applicable for at least twelve months.

In support of our proposal, we believe that the Department will need at least twelve months to: complete its review of public comments; assess, in conjunction with the SEC and the appropriate state regulatory bodies that also have jurisdiction with regard to investment advice retirement investors, the appropriate alignment of regulatory responsibility and oversight; prepare a new regulatory impact analysis; and propose the necessary substantive changes to the “fiduciary” definition and related prohibited transaction exemptions. We assume, in this regard, that the Department would propose new applicability dates in conjunction with the proposed changes, taking into account the time necessary for cost-effective implementation of required changes.

In the interest of avoiding unintended consequences to consumers, mitigating consumer confusion and administrative simplicity, we encourage the Department to act quickly, avoid piecemeal or selective deferrals, and avoid undertaking a series of short delays by extending the applicability date for all the provisions in the adopted and amended exemptions that are not currently applicable. Companies like Prudential who have actively worked to meet the challenging compliance deadline are at a critical juncture in implementing the required changes, and a series of short delays, as a practical matter, would do nothing to constrain or limit the allocation of potentially

³ See, for example, the Investment Company Institute Letter to the Office of Regulations and Interpretations, Employee Benefits Security Division, U.S. Department of Labor, dated March 17, 2017.

unnecessary resources to compliance efforts with rules that are likely to change, while fostering only confusion and uncertainty on the part of consumers and providers. Accordingly, we respectfully request that the Department act with urgency to extend the current January 1, 2018 applicability for a period of at least twelve months.

We look forward to working with the Department to ensure that all working Americans have access to the products and services they need for a meaningful and secure retirement. Should you have any questions concerning any of the matters discussed herein, please contact Robert J. Doyle, Vice President, External Affairs, at robert.j.doyle@prudential.com or 202.327.5244.

Sincerely yours,



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Copies to:

Timothy D. Hauser, Deputy Assistant Secretary for Program Operations
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