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Attn: Investment Advice Regulation RFI (RIN 1210-AB79)  
Office of Regulations and Interpretations  
Employee Benefits Security Administration  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Room N-5655  
Washington, DC 20210  
*Filed electronically at Regulations.gov*

**Re: Delay to Investment Advice Regulation's Upcoming Applicability Date**

Ladies and Gentlemen:

Teachers Insurance and Annuity Association of America ("TIAA") is pleased to share our perspectives on the possibility of a delay to the January 1, 2018 applicability date for certain provisions associated with the conflict-of-interest rule (the "Rule") – including the Best Interest Contract Prohibited Transaction Exemption, Principal Transaction Exemption, and revisions to Prohibited Transaction Exemption 84-24 (collectively, the "Provisions").

As a leading provider of retirement services, TIAA is committed to the efficient and responsible stewardship of our clients' assets. Given the significant likelihood that the Department will extensively modify the Provisions – or even replace them altogether – we are very concerned that continuing to make significant staff and financial investments to satisfy the January 1 applicability date will ultimately prove both a considerable waste of resources and a source of confusion for retirement investors. Consequently, TIAA respectfully urges the Department to delay the Provisions' applicability date, until at least one year after the Department has promulgated changes to the Rule and the Provisions.

**About TIAA.**

TIAA was founded in 1918 on the core belief that those who serve others should retire with financial security – and we have continued to deliver on that promise for nearly 100 years. As a mission-driven organization, TIAA is proud of its longstanding engagement in the policymaking process. Consistent with that commitment, we are grateful for the many opportunities during the multiyear rulemaking to offer comments to the Department.<sup>1</sup>

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<sup>1</sup> TIAA's comment on the proposed rule, dated July 20, 2015, is available on the Department's website at: <https://www.dol.gov/sites/default/files/ebsa/laws-and-regulations/rules-and-regulations/public-comments/1210-AB32-2/00540.pdf> September 24. Our supplemental comment letter, dated September 24, 2015, is

TIAA's unique corporate structure allows us to focus our efforts on our clients' long-term financial needs. TIAA has no outside shareholders, other than the TIAA Board of Overseers, which is a not-for-profit entity. Importantly, under TIAA's corporate charter, TIAA functions without profit to the corporation or its shareholders. As a result, our corporate interests are aligned with those of our clients – both at the plan and individual investor level. This structure makes TIAA particularly sensitive to the potential for additional costs, which ultimately fall to our participants through additional fees and/or lower investment returns.

**TIAA is committed to a clear and enforceable best-interest standard.**

“Put the customer first” has always been a core TIAA value – and we believe this should be the industry standard. We agree that a clear and enforceable best-interest standard should apply to all retirement advice, including distribution advice. Consequently, TIAA has been *directionally* supportive of the Department's rulemaking.

But while articulating this directional support, we have consistently highlighted concerns that the operational and technical aspects not become impractical, overly complex, or unnecessary to accomplish the Department's goals. Regarding the Provisions, we have previously urged the Department to consider refinements that will help retirement-plan participants and IRA Owners achieve more successful retirement outcomes – without causing unnecessary burdens on service providers like TIAA and its affiliates.

**A delay is essential to avoid unnecessary resource expenditures.**

TIAA has already committed significant resources to come into compliance with those aspects of the Rule that became applicable in June. And with less than six months remaining before the Provisions become applicable, we continue to make considerable financial and human-capital investments, including especially in technology systems, to ensure our preparedness for compliance with the Provisions. We continue to make these investments even as President Trump has directed the Department to reconsider the Rule and Secretary Acosta has signaled that significant changes are likely. Why? Changes of such a magnitude – particularly disclosure and recordkeeping requirements – cannot be implemented in a mere matter of months. In fact, our preparations for the Provisions began immediately upon publication in the Federal Register in April, 2016.

At the same time, we and many of our clients are keenly aware that the Department is fundamentally reconsidering the Provisions (as well as the Rule overall). Questions that the

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available on the Department's website at: <https://www.dol.gov/sites/default/files/ebsa/laws-and-regulations/rules-and-regulations/public-comments/1210-AB32-2/03033.pdf>. And on April 17, 2017, we submitted additional comments on “questions raised in the Presidential Memorandum, and generally on questions of law and policy concerning the [Rule] and PTEs.” These comments are available on the Department's website at: <https://www.dol.gov/sites/default/files/ebsa/laws-and-regulations/rules-and-regulations/public-comments/1210-AB32-2/00540.pdf>. Additionally, TIAA offered testimony at the Department's hearing on August 12, 2015; the written testimony is available on the Department's website at: <https://www.dol.gov/agencies/ebsa/laws-and-regulations/rules-and-regulations/public-comments/1210-AB32-2/written-testimony-11.pdf>.

Department posed in its June 29 Request for Information suggest that the Department's consideration could very well result in a fundamental restructuring of the Rule's architecture, including overhauling or even eliminating the Best Interest Contract exemption. (TIAA intends to file comments in response to additional questions posed in the Request for Information.)

Given the potential scope and likelihood of significant changes, it is potentially wasteful to continue operating on the assumption that the Provisions *could* take effect on January 1. We are particularly sensitive to expenditures since, as noted above, any costs ultimately will be borne by our participants through additional fees or lower returns on investments. Still, unless and until the Department amends the Provisions or delays their applicability date, prudence dictates that TIAA proceed based on the January 1, 2018 date.

**A delay is also essential to avoid unnecessary confusion.**

TIAA is the retirement-plan recordkeeper at more than 15,000 institutions, and we work closely with human resources, finance, legal, and other administrators to help them understand and comply with regulatory changes. Additionally, TIAA employs thousands of client-facing personnel, who participate in rigorous, ongoing training programs. These employees interface regularly with plan sponsors, participants, beneficiaries, and IRA Owners.

In our experience, dramatic regulatory changes – such as those directed by the Rule and its associated Provisions – require extensive internal training, and last-minute changes increase the likelihood of errors by our client-facing personnel. We also will need to educate our plan sponsors and IRA owners on how the Provisions will be implemented and how it might impact them. The imperative of meeting the Provisions' January 1 applicability date means that we are now moving swiftly to develop new IT processes to meet those requirements, and to roll out additional robust training programs. But to the extent our client-facing personnel are preparing for Provisions that are unlikely to become applicable in their present form, they have less time to provide the education that helps our millions of individual participants achieve a secure retirement.

Moreover, we are concerned that if the Department does not delay the January 1 applicability date but does subsequently modify the Provisions, TIAA would need to enter into contracts and issue disclosures on the January 1 applicability schedule – and subsequently we will be required to pivot to a different regulatory framework. This will cause considerable confusion for our plan sponsor and individual clients.

Accordingly, we request that the Department commit to providing no less than a one-year period as to what the final conditions of the Rule and its exemptions will be before such conditions take effect.

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TIAA remains committed to working with the Department to ensure that an enforceable best-interest standard is implemented in a streamlined and efficient manner. We would be pleased to discuss the foregoing comments. Thank you for your consideration.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Derek B. Dorn". The signature is fluid and cursive, with a long horizontal flourish at the end.

Derek B. Dorn