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VIA ELECTRONIC MAIL

July 21, 2017

Office of Exemption Determinations
EBSA (Attention: D-11933)
U.S. Department of Labor
200 Constitution Avenue NW, Suite 400
Washington, DC 20210

RE: RIN 1210-AB82

Ladies and Gentlemen:

In its request for information ("RFI") published in the Federal Register on July 6, 2017[1], the Employee Benefits Security Administration of the U.S. Department of Labor ("Department") requested information on whether a delay in the January 1, 2018, applicability date of the provisions of the Best Interest Contract Exemption, the Principal Transactions Exemption, and amendments to PTE 84-24 (collectively, "Exemptions") would reduce burdens on financial services providers and benefit retirement investors. These Exemptions are necessary for financial services providers to give advice to retirement investors, particularly in light of the Department's expanded "Definition of the Term 'Fiduciary'; Conflict of Interest Rule–Retirement Investment Advice" ("Fiduciary Rule") under the Employee Retirement Income Security Act of 1974 ("ERISA") and the Internal Revenue Code of 1986 ("Code").

Commonwealth Financial Network® ("Commonwealth") is an independent broker/dealer and an SEC-registered investment adviser with home office locations in Waltham, Massachusetts, and San Diego, California, and more than 1,700 registered representatives ("RRs") and investment adviser representatives ("IARs") who are independent contractors conducting business in all 50 states (collectively, "Advisors"). Virtually all of Commonwealth's Advisors work with qualified retirement plans or IRAs and will be affected by the Fiduciary Rule.

Commonwealth strongly supports a delay in the applicability date of the Exemptions so the Department can conduct an economic, legal, and policy review of the Fiduciary Rule, the Exemptions, and their effects on retirement investors. A delay will also give the Department time to examine issues raised by the Presidential Memorandum dated February 3, 2017—specifically, whether the Fiduciary Rule may adversely affect access to retirement advice, has resulted in disruptions to the retirement services industry, and will likely cause an increase in litigation.[2] The applicability date should be delayed at least 18 months so the Department has enough time to complete a proper reexamination of the Fiduciary Rule and its related Exemptions.

The Department also needs time to collect and analyze data about the compliance costs of the Fiduciary Rule and related Exemptions, and whether these costs are justified by the benefits to retirement investors. In addition, new products, such as mutual fund "clean shares," are slowly being introduced to the market, and the Department needs to consider the impact of these innovations in its analysis. Furthermore, a delay will grant financial services providers more time to build systems and implement policies and procedures to comply with the Fiduciary Rule and the Exemptions.

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[1] Request for Information Regarding the Fiduciary Rule and Prohibited Transaction Exemptions, 82 Fed. Reg. 31,278 (July 6, 2017)

[2] *See* Presidential Memorandum on Fiduciary Duty Rule (February 3, 2017), available at https://www.whitehouse.gov/the-press-office/2017/02/03/presidential-memorandum-fiduciary-duty-rule.

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Any risks associated with delaying the applicability date of the provisions of the Exemptions are mitigated by the retirement industry's existing regulatory oversight. The Department, the Securities and Exchange Commission, and the Financial Industry Regulatory Authority conduct regular and ongoing exams of financial services providers and are well equipped to enforce applicable rules and regulations. In addition, as of June 9, 2017, the Fiduciary Rule's expanded definition and the Exemptions' Impartial Conduct Standards ("ICS") apply to financial services providers. The ICS raised the standard of care for retirement advice, requiring financial services providers to offer advice that is in the investor's best interest, charge no more than reasonable compensation, and make no misleading statements. This higher standard of care will be applied in any disputes between retirement investors and financial services providers.

If the January 1, 2018, applicability date of the provisions of the Exemptions is not delayed, there will be numerous adverse effects on the retirement industry and retirement investors. Financial services providers are rushing to change business models, implement new policies and procedures, and build systems in time for the January 1, 2018, applicability date. Without a delay, financial services providers may be forced to begin implementing these changes—even though it is likely that there will be substantial modifications to the Exemptions once the Department has completed its analysis.

Investor confusion is another reason supporting a delay. The fate of the Fiduciary Rule has been in question ever since last November's election. Investors have been unsure about whether there will be any changes to the products and services offered by their financial services providers. To avoid investor confusion and market disruptions, the Department should act quickly to delay the rule and communicate updates to the public on a regular basis.

The Department should also extend the comment period for the remaining questions in the RFI by 60 days to allow financial services providers to collect data and provide meaningful comments regarding the substantive issues raised in the RFI.

The Department should act quickly to delay the applicability date of the Fiduciary Rule for at least 18 months. Not only is the delay necessary to fulfill the Department's mandate under the Presidential Memorandum, but the delay will protect against investor confusion and marketplace disruptions. The Department needs to take this opportunity to revise the Fiduciary Rule in a way that will protect investors without limiting access to retirement advice or investor choice.

If you have any questions regarding our comments or concerns, please call me at 781.736.0700.

Sincerely,
Commonwealth Financial Network

/s/ Brendan Daly
Legal and Compliance Counsel