TheStandard®

July 21th, 2017

Mailed Electronically: EBSA.FiduciaryRuleExaminations@dol.gov

Office of Exemption Determinations, EBSA
Attn: D-11933
US Department of Labor
200 Constitution Avenue NW, Suite 400
Washington, DC 20210

RE: Request for Information Regarding the Fiduciary Rule and Prohibited Transaction Exemptions (RIN 1210-AB-82)

Greetings:

Standard Insurance Company appreciates the opportunity to provide additional information regarding the Department of Labor's proposal to extend the January 1, 2018 delay of the applicability date for the BIC Exemption and the amendments to PTE 84-24.

Standard Insurance Company ("The Standard") is an Oregon-based insurance company with a national presence. Through its affiliates, The Standard provides financial services, including retirement plans services, group and individual annuities and group and individual insurance products.

The Standard strongly <u>supports</u> the Department's proposal to delay the applicability date for the BIC Exemption and the amendments to PTE 84-24. For the reasons stated below, we believe that a 2-year delay would benefit retirement investors, financial service companies and the Department. Such a time period would allow the Department more time to complete a comprehensive review of the overall impact of the Regs and to develop a new approach that is less burdensome to retirement investors, financial service providers and is better coordinated with other regulatory agencies. After completion of that effort, a 2-year delay would also provide enough time for the industry and retirement investors to adjust to the many changes initiated by the new Regulations and corresponding exemptions ("Regs").

The Department has asked for answers to the following questions in its Request for Information (RFI):

First, the Department asked "Would a delay in the January 1, 2018, applicability date of the provisions in the BIC Exemption, Principal Transactions Exemption and amendments to PTE 84–24 reduce burdens on financial services providers and benefit retirement investors by allowing for more efficient implementation responsive to recent market developments?"

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Yes, a delay in the January 1, 2018 applicability date of the provisions in the BIC Exemption, Principal Transactions Exemption and amendments to PTE 84–24 would reduce burdens on financial service providers and benefit retirement investors by allowing for a more efficient implementation of the changes necessary and to provide the time necessary to respond to recent market developments.

The following are examples of how the burdens to retirement investors and financial service providers would be reduced by an additional delay:

1) **Fee Based Annuity Products**: Insurance companies are in the process of developing fee-based annuity products to facilitate compliance with the Regs. This is a time-intensive process because annuities are state-regulated products which require filing and approval by insurance regulators in all states in which they are sold. An extension of the applicability date would allow insurance companies sufficient time to develop these products and obtain the necessary regulatory approvals.

2) **Price Impact:** The Regs have created some unintended consequences that will negatively impact retirement investors. The Regs have already increased prices but not necessarily for the reasons anticipated.

   The BIC exemption requires that if different compensation is paid to investment advisors, it must be based on neutral factors. The BIC requirement to standardize compensation by reasonably designated investment categories has led many banks and broker/dealers to implement "compensation bands," thus some firms that sell our products have specified the compensation rates that all of their annuity providers must pay to them. In certain cases, their new compensation structure is <u>higher</u> than were in place before the new BIC requirement. This, in turn, has required us to increase our prices to accommodate the increased compensation bands.

   Also, compensation banding is complex and difficult to administer, as each firm has a different set of bands and requirements. An extension of the applicability date is needed to allow sufficient time for these changes to be implemented properly with as little confusion as possible.

3) **Limited Access:** The current Regs limit retirement investors' access to retirement products, structures and retirement savings information because independent insurance agents are currently ineligible for the BIC Exemption. In 2015, independent insurance agents sold more annuities than any other distribution channel.[1] In its current form, the BIC Exemption does not cover independent insurance agents who sell these products. Additionally, PTE 84-24, as amended, will no longer cover an important retirement investment vehicle: fixed indexed annuities.

   Independent insurance agents provide an important service to individuals preparing for retirement because they can offer consumers a wider variety of insurance products from a greater number of insurance carriers, thereby helping retirement investors better compare products to best meet their needs. Leaving independent insurance agents out of the current exemptions for such popular[2] products as fixed indexed annuities harms retirement investors because it limits their access and choice.

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[1] *U.S. Individual Annuity Yearbook - 2015*, LIMRA Secure Retirement Institute

[2] *http://www.limra.com/Posts/PR/Data_Bank/_PDF/2016-Q3-Annuity-Estimates.aspx*

We urge the Department to not only to extend the applicability date of PTE 84-24, but also to modify it so that all insurance products covered by the original exemption continue to be included.

Second, the Department asked, "Would such a delay carry any risk?"

We see little risk that would be caused by the delay. Advisors are already held to the new fiduciary definition and the Impartial Conduct Standards. As the Department itself noted in its 60-day extension of the Regs, the implementation of the Impartial Conduct Standards should provide investors the full gains provided by the fiduciary rulemaking.[3] Similarly, retirement investors would benefit from a delay and a revised rule that doesn't raise costs or limit access.

Third, the Department asked, "Would a delay otherwise be advantageous to advisers or investors?"

Yes, an additional delay would be very advantageous to both advisers and investors. A delay would give the Department more time to adequately review the Regs and make any changes necessary. It would be very confusing to both advisers and investors if the additional requirements of the BIC Exemption and PTE 84-24 become effective on January 1, 2018, only to change months later. Additionally, advisers and investors would benefit from a delay until new, compliant products are rolled out and tested in the marketplace.

The scope and specifics of the Regs have been in a state of constant flux since November 2016. As a result, it has been difficult for financial providers like The Standard to know exactly what to implement. We, the advisers we work with, and retirement investors would be best served by a final workable version of the Regs and sufficient time to implement them. In their current uncertain state, the Regs are not beneficial to either advisers or investors.

Additionally, we urge the Department to also extend the temporary enforcement policy provided in Field Assistance Bulletin ("FAB") 2017-12.[4] The industry is working diligently and in good faith with requirements that are currently uncertain. A fair approach under these circumstances would be to also extend the temporary enforcement policy in addition to a delay of the January 1, 2018 applicability date.

Fourth, "What costs and benefits would be associated with such a delay?"

The benefits of an additional delay far outweigh the costs. The new fiduciary definition is already in place as well as the Impartial Conduct Standards for the exemptions. A delay of the remaining provisions is imperative to give the Department the time and flexibility to create exemptions that protect retirement investors but do not limit their access to the products and services that are currently available. The costs of not extending the January 1, 2018 applicability date could include loss of products, services, pricing and sales distribution channels that will not be easily retrieved.

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[3] *Federal Register, Vol 82, No. 66, 4-7-2017, at 16909*
4 EBSA Field Assistance Bulletin No. 2017-02, May 22, 2017

Conclusion:

In order to reduce the burdens on the financial services providers and benefit retirement investors, we request a delay of the applicability date for the BIC Exemption and PTE 84-24 to January 1, 2020, if not longer.

Thank you for the opportunity to provide additional information. Please feel free to contact us with any questions.

Sincerely,

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