



Submitted electronically: e-OED@dol.gov

February 17, 2017

Office of Exemption Determinations
Employee Benefits Security Administration – Attention D-11926
U.S. Department of Labor
200 Constitution Avenue NW, Suite 400
Washington, DC 20210

RE: **ZRIN 1210-ZA26** – Proposed Best Interest Contract Exemption for Insurance Intermediaries

Dear Acting Secretary Hugler:

Fidelity & Guaranty Life Insurance Company (“FGL”) writes to comment on the Department of Labor’s proposed Best Interest Contract Exemption for Insurance Intermediaries (the “Proposed Exemption”) creating a new class exemption under the Fiduciary Duty Rule (“the Rule”) published April 8, 2016. (81 FR 20946).

FGL is a life insurance company. For over 50 years, FGL has been helping middle-income Americans prepare for retirement and unexpected loss of life. As of September 30, 2016, we had approximately 700,000 policyholders relying on the safety and protection features of our fixed annuity and life insurance products. We offer our products through a network of approximately 200 independent IMOs that in turn represent an estimated 35,000 independent agents. Perhaps our most popular product is the fixed indexed annuity (FIA) which benefits our customers by providing opportunity for gain based in part on underlying market indices while at the same time guarding against loss of principal in accordance with state nonforfeiture laws.

FGL is a member of the National Association for Fixed Annuities (“NAFA”). Today, NAFA submitted a letter commenting on the Proposed Exemption (the “NAFA Comment Letter”). FGL fully supports and incorporates by reference the objections and concerns expressed in the NAFA Comment Letter about the Proposed Exemption.¹ FGL agrees wholeheartedly with the commentary expressed by NAFA in its submission about the Proposed Exemption. FGL is especially dismayed by the unfortunate and ill-informed questions raised in the preamble concerning non-guaranteed elements contained in annuity contracts. FGL is deeply concerned too that this Proposed Exemption comes far too late in the

¹ FGL reserves the right to submit further comments if the comment period is extended in connection with delay of the applicability date of the Rule. FGL also reserves the right to challenge the validity of the Rule and the related exemptions including BICE and PTE 84-24. It is FGL’s position that the Rule and related exemptions are legally infirm and were adopted in a manner violative of the Administrative Procedure Act.

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Fidelity & Guaranty Life is the marketing name of Fidelity & Guaranty Life Insurance Company issuing insurance in the United States outside of New York. Life insurance and annuities issued by Fidelity & Guaranty Life Insurance Company, Des Moines, IA.



rulemaking process for insurance carriers to adjust longstanding business models to adjust to such requirements were the Rule ever to take effect.

With that said, FGL appreciates the new administration at the Department of Labor under President Donald Trump is revisiting these matters and we are hopeful concerns about this Proposed Exemption will prove moot as the Rule is reviewed and we hope repealed. Just as NAFA recognized the new administration appears receptive to concerns of those in the financial services industry who work hard every day to provide quality products for the average retirement savers of America, so does FGL. We strongly urge the Department to withdraw the Rule which is unnecessary, creates additional bureaucracy, will adversely affect the job market in the insurance industry, and in the end operate to deprive consumers of the best choices for quality products that help ensure a safe and secure retirement.

FGL appreciates the opportunity to submit these comments. Please do not hesitate contacting our company if additional information or clarification is needed.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Marhoun", with a long horizontal line extending to the right.

Eric Marhoun
Executive Vice President, General Counsel & Secretary

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