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September 15, 2017

<u>Filed Electronically</u>

Office of Regulations and Interpretations
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Re: Notice of proposed amendments to PTE 2016-01, PTE 2016-02, and PTE 84-24
<u>RIN 1210-AB82</u>

Ladies and Gentlemen:

On behalf of The Guardian Life Insurance Company of America and its affiliates ("Guardian"), I am pleased to respond to the Department of Labor's (the "Department") proposed rulemaking regarding the final regulation (the "Fiduciary Rule") defining the term "fiduciary" under the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). This letter is being provided in response to the Department's proposed extension ("Proposed Extension") of the transition period under sections II and IX of the Best Interest Contract Exemption ("BICE") and section VII of the Class Exemption for Principal Transactions in Certain Assets Between Investment Advice Fiduciaries and Employee Benefit Plans and IRAs, and the delay of the applicability dates of certain amendments to Prohibited Transaction Exemption 84-24.

Guardian is a Fortune 250 global financial services company that provides individual retirement savers and small businesses with diversified financial product and service solutions, including life insurance, disability income insurance, annuities, wealth management and investments, which can help Americans achieve long-term financial security and guaranteed income for life. Guardian has approximately 8,800 employees and a network of over 2,750 financial representatives in more than 58 agencies nationwide. For nearly 160 years, Guardian's success as a mutual company has been inextricably linked to ensuring our customers receive products and services that are in their best interest. It is from this customer-focused perspective that I submit this letter.

Guardian strongly supports the Department's Proposed Extension. Without the Proposed Extension, Guardian and other financial services companies will be forced to incur unnecessary costs to build out complex compliance and disclosure systems that may be jettisoned if the Department makes changes to the Fiduciary Rule. This effort would be an inefficient use of Guardian's personnel and financial resources, the downstream costs of which will likely be borne by the very consumers the Department has sought to protect. Further, regulatory changes made to the Fiduciary Rule upon the completion of the Department's examination, if any, will likely require additional transition time as the financial services industry prepares for implementation.

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We are hopeful that upon the completion of the Presidentially-directed review of the regulation, meaningful improvements will be made to ensure millions of American retirement savers will have access to needed financial advice and a broad range of appropriate investment options.[1] With the benefit of additional time, Guardian believes it is critical that the Department coordinate its review of the Fiduciary Rule with the Securities and Exchange Commission and the National Association of Insurance Commissioners to prevent conflicting and incompatible federal and state regulatory requirements. We appreciate that the Department has taken the position that it no longer intends to defend the arbitration-restricting condition of the BICE, however, inherent legal liability persists for financial services companies due to the warranties required by the BICE. Therefore, we continue to encourage the Department to consider a more appropriate enforcement mechanism for this regulation by eliminating the private right of action available to the plaintiffs' bar.

Thank you for providing Guardian with the opportunity to comment. If I can provide any further assistance, please contact me.

Respectfully submitted,

Tracy Rich

Tracy Rich
Executive Vice President & General Counsel

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[1] Presidential Memorandum on Fiduciary Duty Rule for the Secretary of Labor (February 3, 2017), published at 82 Fed. Reg. 9675 (Feb. 7, 2017)