

# GROOM LAW GROUP

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November 29, 2023

Assistant Secretary Gomez  
Office of Regulations and Interpretations,  
Employee Benefits Security Administration, Room N-5655,  
U.S. Department of Labor,  
200 Constitution Ave. NW,  
Washington, DC 20210,  
Attention: Definition of Fiduciary—RIN 1210-AC02

**Re: Request to Testify on the Retirement Security Rule: Definition of an Investment Advice Fiduciary and Associated Prohibited Transaction Exemption Amendments: Docket ID EBSA-2023-0014**

Dear Assistant Secretary Gomez:

We represent a client group that includes a number of the nation's leading providers of products and services in the retirement investment marketplace. These providers serve retail customers who pursue a number of goals, institutional investors who seek to manage retirement plan investment risk, and other intermediaries and individuals who aid in the effort to achieve retirement security. This client group has significant concerns regarding the Department's proposed Retirement Security Rule and the various proposed amendments to certain related prohibited transaction exemptions.

We are requesting to testify at the Department's December 12, 2023 Retirement Security Rule hearing. We are also requesting that the Department provide additional time for the public to exercise the opportunity to participate in the rulemaking process.

Our clients are working diligently to provide substantive comments on the proposal by the Department's January 2, 2024 deadline. We are concerned, however, that the Department only provided thirty-seven working days (excluding the two days that the Department will hold the hearing) in the comment period and that the Department has thus far declined requests to extend the comment period. We note that Assistant Secretary Gomez has asked groups to take a close look at the proposal and acknowledged that "there have been so many changes since the last rule came out."<sup>1</sup> As a result, we were surprised when Assistant Secretary Gomez indicated that an extension that would allow for additional public input is unnecessary as "EBSA believes that its current proposal reflects significant input it has received from public engagement with

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<sup>1</sup> <https://www.thinkadvisor.com/2023/10/24/dols-gomez-explains-new-fiduciary-rule/>

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this project since 2010.”<sup>2</sup> Without an extension, the Department authorizes a rushed process that will hinder the public’s ability to digest and meaningfully comment on the complex and comprehensive proposed package.

Our clients have also raised concerns about the hearing. In the past, hearings were an opportunity for the public to provide feedback that was related to other commenters’ submissions. However, for this hearing, it appears that the public will have limited time to review other commenters’ submissions. In addition to the hearing occurring during the comment period, as of November 28, 2023, the Department has not yet made any of the 932 comments, that regulations.gov indicates that it has received, publicly available. As a result, we respectfully request that the Department both extend the comment period and hold a second hearing after the comment period closes to ensure a procedurally fair rulemaking process.

The individual who will testify is:

Jennifer Eller

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The client group intends to submit written comments before the comment period expires. Thank you for your consideration of our requests.

Sincerely,



Jennifer Eller

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<sup>2</sup> <https://images.thinkadvisor.com/contrib/content/uploads/documents/415/518413/Extension-request-response-letter-SIFMA.pdf>