

From: Reynolds, Kevin
Sent: Monday, March 13, 2017 5:03 PM
To: EBSA.FiduciaryRuleExamination
Subject: RIN 1210-AB79

To whom it may concern:

On behalf of the Penn Mutual Life Insurance Company (Penn Mutual) and its wholly owned subsidiary broker-dealer, Hornor, Townsend & Kent, Inc., member FINRA/SIPC (HTK), we offer these comments on the proposed rule extending for 60 days the applicability date of the Rule defining who is a “fiduciary” under the Employee Retirement Security Act and the Internal Revenue Code of 1986, and the applicability date of related prohibited transaction exemptions, including the best interest contract exemption and amended prohibited transaction exemptions, in order to address questions of law and policy. Penn Mutual and HTK may be referred to individually or collectively as the “Company” throughout this email.

The Company thanks the Department of Labor for its Field Assistance Bulletin of March 10, 2017, which reduces the uncertainty faced by the industry if the Department’s review is not completed by April 10, 2017. Penn Mutual and HTK support the proposed 60 day delay and urge the Department to enact the rule implementing the delay. The Presidential Memorandum of February 3, 2017 has raised important factors for the Department to consider prior to the Rule’s applicability. In light of the uncertainty of whether or to what extent revisions may be made to the Rule, it does not make sense to adhere to the existing applicability date. To do so would require the Company to begin implementation of the Rule at the same time that it is under review for possible revisions. More importantly, it could cause confusion to our customers, the intended beneficiaries of the Rule, if the Rule is ultimately revised after we have advised them under the present version of the Rule.

In addition, the period for comments on the examination described in the February 3rd Presidential Memorandum will not expire until April 17, 2017, after the April 10th applicability date. Therefore, the Department will not even begin to consider all the substantive comments until the original applicability date has passed. A failure to invoke the 60 day delay now would place our Company and others affected by the Rule in the untenable position of implementing a Rule whose comment period for possible revision is still open. Once again, our customers would be the parties most negatively impacted, as they would be forced to try to understand potentially contradictory procedures, received only weeks apart.

For the above reasons, we urge the Department to enact the 60 day delay, in order to avoid potential confusion to our customers. Thank you for your consideration of the Company’s position.



Kevin Reynolds
Chief Legal Officer
The Penn Mutual Life Insurance Company
600 Dresher Road
Horsham, PA 19044
(O) (215) 956-8989
(C) (732) 539-9349

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