Lincoln Financial Group®

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Filed Electronically

The Office of Exemption Determinations
Employee Benefits Security Administration
Attention: D-11933
U.S. Department of Labor
200 Constitution Avenue, N.W., Suite 400
Washington, DC 20210

Re: RIN 1210-AB82

To Whom It May Concern:

Lincoln Financial Group is the marketing name for Lincoln National Corporation and its affiliates (collectively, "Lincoln"). This letter responds to question 1 of the Department of Labor's (the "Department's") Request for Information ("RFI"), asking whether the Department should extend the January 1, 2018 applicability date of certain provisions of the fiduciary regulation and related new and amended prohibited transaction exemptions (the "fiduciary rule"). **Lincoln strongly supports this extension.**

The Department has indicated clearly, through this current RFI, its March 2 request for comment, as well as other public statements by Department officials,[1] that it is actively contemplating changes to this rule. In the meantime, the fiduciary rule's requirement that advisors and firms act in their customers' best interest, a concept we have always agreed with, went into effect on June 9. Consumers are already benefiting from this change. The industry has benefited too, as the passing of this milestone date removed some destabilizing uncertainty and allowed firms to finalize business model decisions and communicate them to advisors and customers. An extension of the January 1, 2018 applicability date would continue this relative stability while the Department contemplates further changes to the rule, and would allow time for financial institutions to implement the rule as eventually revised in an orderly way, thereby making the transition to complete implementation more cost-effective and a more positive experience for consumers.
In addition, as we are sure the Department is hearing from commenters across the industry, financial institutions need to start preparing <u>now</u> for the parts of the rule scheduled to go into effect on January 1, 2018. This preparation includes large and expensive information technology re-

[1] For example, in a May 22 opinion piece for the Wall Street Journal, Secretary of Labor Alexander Acosta wrote "Trust in Americans' ability to decide what is best for them and their families leads us to the conclusion that we should seek public comment on how to revise this rule." In addition, Secretary Acosta and SEC chair Jay Clayton have publicly signaled an intention to work together on potential revisions to the rule. <u>See</u> Ignites.com ("SEC, DOL Vow to Cooperate in Fiduciary Rule Review"), June 28, 2017.

design and builds, as well as comprehensive training and communication for advisors and customers. To require the industry to engage in this extensive and costly preparation for requirements that could very well change does not make sense under any cost-benefit analysis. It will only confuse customers, and generate unnecessary costs to cover the building and then dismantling or altering of processes in response to the changes, costs that will inevitably be passed along to consumers.

As we will explain more fully in a subsequent comment letter, while Lincoln has always agreed with the Department's goal of ensuring that retirement savers receive advice that is in their best interest, there are aspects of the fiduciary rule that we believe run counter to this goal. In particular, we strongly disagree with the aspects of the rule that favor fee-based compensation over commissions, even though commissions can be and often are in a customer's best interest. This bias improperly encourages firms and advisors to favor fee-based advice, not because it is better for the customer, but because it allows them to avoid the extra operational friction and legal risk that the rule imposes only on commissions. To remove this bias and place all products and services on a level playing field, we believe the Department must make the following changes:

- Remove the private right of action and other extra compliance hurdles that apply only to commission compensation from the Best Interest Contract Exemption ("BICE").
- Work with the other financial services industry regulators to create a harmonized standard of care, with enforcement by the appropriate regulator for the product or service involved (e.g., the SEC, FINRA, state insurance departments), so that all investments, not just retirement investments, are subject to uniform rules and enforcement mechanisms.
- As part of the best interest standard, require consideration of (1) lifetime income needs and (2) the value—which requires looking through to the associated cost—of insurance guarantees in meeting those needs.
- Treat all insurance products the same under Prohibited Transaction Exemption ("PTE") 84-24 and harmonize its requirements with other exemptions.

Thank you for the opportunity to comment.

Sincerely,

Dennis Glass

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