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20 July 2017

Office of Regulations and Interpretations
Employee Benefits Security Administration
Attn: Conflict of Interest Rule
Room N-5655
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Re: Request for Information Regarding the Fiduciary Rule and Prohibited Transactions (RIN 1210-AB82)

Dear Sir or Madam:
CFA Institute[1] appreciates the opportunity to provide comments to the Department of Labor (DOL) in response to its request for information on the fiduciary rule and prohibited transactions (RFI). CFA Institute represents the views of those investment professionals who are its members before standard setters, regulatory authorities, and legislative bodies worldwide on issues that affect the practice of financial analysis and investment management, education and licensing requirements for investment professionals, and on issues that affect the efficiency, integrity and accountability of global financial markets.

Executive Summary

Delay. We support delay of the 1 January 2018 applicability date for the DOL's fiduciary rule definition and related prohibited transaction exemptions on the condition that adherence with the Impartial Conduct Standards continues to be required. We believe this delay will allow the DOL to fully consider and implement other exemptions that ensure important investor safeguards. We also hope that this extension will allow the DOL and SEC to work together toward a uniform approach.

Discussion

CFA Institute has supported the overall objective of the DOL's fiduciary rule (Rule) to bring all investment advice providers to retirement plans and IRA account holders under a best interest standard. We strongly believe that retirement advisers should act in the best interests of retirement investors and ensure that the advice they provide is impartial, transparent, and allows clients to make reasoned decisions about investments and service providers.

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[1] CFA Institute is a global, not-for-profit professional association of more than 150,000 investment analysts, advisers, portfolio managers, and other investment professionals in 163 countries, of more than 144,500 hold the Chartered Financial Analyst® (CFA®) designation. The CFA Institute membership also includes 149 member societies in 73 countries and territories.

At the same time, we have recognized that the Rule's complexity made compliance difficult and costly. Absent other options by the DOL or a similarly positioned rule by the Securities and Exchange Commission (SEC), we welcomed the DOL's Rule as addressing a much-needed gap in investor protections. We now welcome actions by both agencies to revisit this and to work together to create a harmonized approach for advice providers in both retirement and non-retirement arenas.

Delay of Applicability Date

We support delaying applicability of the Rule beyond the scheduled 1 January 2018 date. While this is not a position we have supported in the past, we believe there is merit in allowing the DOL time to consider other prohibited transaction exemptions (PTEs), as indicated in its RFI. As we have noted in prior comment letters and in testimony, we believe that aspects of the current Rule are overly complex. Replacement of the Best Interest Contract Exemption (BICE) with more streamlined exemptions that equally ensure that investor interests come first would respond to many of the most stringent criticisms of the Rule.

If the DOL is considering replacing the BICE with other PTEs (or allowing choices among several PTEs), the Department will need time to propose and adopt them, and industry will need time to implement compliance systems to respond to them. While we understand the potential cost to investors of such a delay, we believe that they will ultimately benefit from an integrated and simplified rule that offers more options for investors.

Our support for any delay is conditioned on retention of the Impartial Conduct Standards throughout the delay period. These standards impose a reasonable baseline of conduct that helps maintain a standard focused on investors' best interest. This approach also reduces the projected harm to investors from receiving conflicted investment advice during a delay.

Conclusion

We encourage the DOL to delay applicability of the Rule beyond the scheduled 1 January 2018 date to allow it time to consider other approaches to the Rule, including exemptions that may present a more streamlined and acceptable approach than the BICE. We also urge the DOL to work with the SEC during such extension to fashion compatible fiduciary rules for all advice providers both within and outside of the retirement community.

Should you have any questions about our positions, please do not hesitate to contact Kurt N. Schacht, CFA at kurt.schacht@cfainstitute.org or 212.756.7728; or Linda Rittenhouse at linda.rittenhouse@cfainstitute.org or 434.951.5333.

Sincerely,

/s/ Kurt N. Schacht

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/s/ Linda Rittenhouse

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