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Submitted Electronically to EBSA.FiduciaryRuleExamination@dol.gov.

Office of Exemption Determinations
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Avenue, NW, Suite 400
Washington, DC 20210
Attention: D-11712, 11713, 11850

Re: Extension of Transition Period and Delay of Applicability Dates; Best Interest Contract Exemption (PTE 2016-01); Prohibited Transaction Exemption 84-24 for Certain Transactions Involving Insurance Agents and Brokers, Pension Consultants, Insurance Companies, and Investment Company Principal Underwriters (PTE 84-24)
RIN 1210-AB82

To Whom it May Concern:

The Insured Retirement Institute ("IRI")[1] appreciates the opportunity to provide these comments to the Department of Labor (the "Department") in response to the Department's proposal to extend the transition period and delay the January 1, 2018 applicability date (the "Applicability Date") for certain provisions of the Best Interest Contract Exemption (the "BIC Exemption") and amended prohibited transaction exemption 84-24 ("Amended PTE 84-24") issued by the Department on April 8, 2016 in connection with the adoption of the final

[1] IRI is the only national trade association that represents the entire supply chain of the retirement income industry. IRI has more than 500 member companies, including major life insurance companies, broker-dealers, banks, and asset management companies. IRI member companies account for more than 95 percent of annuity assets in the United States, include the top 10 distributors of annuities ranked by assets under management, and are represented by more than 150,000 financial professionals serving over 22.5 million households in communities across the country.

regulation defining the term "fiduciary" (the "Fiduciary Definition Regulation") under the Employee Retirement Income Security Act of 1974, as amended ("ERISA") (collectively, the "Fiduciary Rule" or the "Rule"). IRI commends the Department for recognizing the need for an extension of the transition period and a delay in the Applicability Date.[2]

Comments on Proposed Delay

The proposal would delay the Applicability Date for 18 months (to July 1, 2019), but the Department has asked whether it should instead delay the Applicability Date for "a specified period after a certain action on the part of the Department" or take a tiered approach under which the Applicability Date would be delayed "until the earlier or the later of (a) a date certain or (b) the end of a period following the occurrence of a defined event." In comment letters submitted on July 17, 2017 and August 7, 2017 (which are hereby incorporated by reference into this letter), IRI recommended a tiered approach. Specifically, we requested that the Applicability Date be delayed until "the later of January 1, 2020 or the date that is eighteen (18) months after the Department takes final action on the Fiduciary Rule."

The following is a summary of the reasons we believe a delay is necessary and appropriate. These reasons are explained in greater detail in our July 17 comment letter.

a. If the Department adopts changes to the Rule, the industry will need adequate time to implement those changes.

b. Even if the Department makes no changes to the Rule, the implementation timeline provided for the additional requirements as presently written is unworkable and should be delayed.

c. Delaying the applicability date will provide time for the Department to constructively engage with the SEC, FINRA, the NAIC and other regulators to ensure regulatory clarity and consistency.

d. Delaying the applicability date will allow the Department to assess the impact of the expanded definition of fiduciary and the Impartial Conduct Standards with minimal risk of consumer harm.

e. A delay is appropriate in light of the pending litigation regarding the Rule.

We continue to believe that the tiered approach recommended in our previous comment letters would provide the greatest level of certainty for our members and the customers they serve. This structure would avoid the need for the Department to propose additional delays in the future if more time is needed to reach a final outcome.

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[2] Setting aside the many "me too" petitions and form letters on both sides, a substantial portion of the substantive input provided throughout this process has been uniformly and overwhelmingly supportive of this recognition.

At present, however, we believe it is critical that the Department act promptly to finalize the delay so that our members and other industry participants can appropriately align their compliance efforts with the Department's intent and expectations. As such, despite our preference for the tiered approach described in our previous comment letters, IRI and our members would support the proposed delay regardless of the structure and length ultimately chosen by the Department.

Other Comments

Temporary Enforcement Policy. In footnote 32 of the proposal, the Department asks whether it should also extend the duration of its temporary enforcement policy[3] for the same period covered by the proposed delay. IRI and its members fully support such an extension of the temporary enforcement policy for the same reasons we believe the proposed delay is necessary and appropriate. We note, however, that extending the duration of the temporary enforcement policy should not be viewed by the Department as an alternative to the proposed delay. Even with the temporary enforcement policy in place, fiduciaries to ERISA plans remain subject to potential individual claims by plan participants under the existing statutory framework.

Streamlined Exemption for Innovative Products. We note that the Department has indicated in the proposal that it expects to "propose in the near future a new and more streamlined class exemption built in large part on recent innovations in the financial services industry." We provided our views on this concept in our August 7 comment letter, and we would urge the Department to carefully consider those comments as it considers whether and how to formulate such a proposal.

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If you have questions about anything in this letter, or if we can be of any further assistance as the Department works to improve the Fiduciary Rule, please feel free to contact me or Lee Covington, IRI's Senior Vice President and General Counsel.

Sincerely,

Catherine J. Weatherford
President & CEO
Insured Retirement Institute

[3] See Field Assistance Bulletin 2017-02 (May 22, 2017).