LPL Financial

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Via Electronic Submission

(RIN 1210-AB82)
Office of Exemption Determinations, EBSA
Attn: D-11712, 11713, 11850
U.S. Department of Labor
200 Constitution Avenue N.W., Ste 400
Washington, DC 20210

Re: RIN 1210-AB82 – Proposed Extension of Transition Period and Delay of Applicability Dates

Dear Ladies and Gentlemen:

LPL Financial LLC ("LPL") appreciates the opportunity to comment on the Department of Labor's (the "Department's") proposed amendments to the Best Interest Contract ("BIC") Exemption, the Principal Transaction ("PT") Class Exemption, and Prohibited Transaction Exemption 84-24 (collectively, the "Exemptions") that would delay the applicability of certain conditions of the Exemptions, thereby extending the transition period to July 1, 2019. For the reasons explained below, we support the Department's proposal to extend the transition period to July 1, 2019, but we also urge the Department to consider adopting a tiered approach such that the transition period would continue until the later of July 1, 2019, or a date that is at least six months after the date on which the Department adopts a final rule making any changes to the fiduciary rule or Exemptions that it determines are necessary based on its study (or determines that no amendments are needed).

LPL has long supported the Department's intention to protect retail retirement investors by adopting a standard applicable to financial institutions and professionals that provide them with fiduciary investment advice. [1] Nonetheless, we agree that the fiduciary rule and related exemptions must be reexamined in accordance with the President's memorandum dated February 3, 2017, and that certain changes are needed to create a rule that does not unduly limit investors' choice of retirement services and products. Moreover, because the impartial conduct standards are currently in effect and protecting investors, the Department should take the time necessary for a careful, thoughtful, and complete review and reconsideration of the rule and related exemptions.

An extension will also allow sufficient time for the Department to coordinate with the Securities and Exchange Commission in its development of a standard of care for all retail investors. Coordination among the relevant regulators will allow for a harmonized standard that would apply to personalized

[1] Letters from David P. Bergers, General Counsel, LPL Financial, to Office of Regulations and Interpretations, Employee Benefits Security Administration (July 21, 2015), (Sept. 24, 2015), (March 17, 2017), and (April 17, 2017). Letter from Michelle Oroschakoff, Chief Legal & Risk Officer, LPL Financial to Office of Regulations and Interpretations, Employee Benefits Security Administration (July 21, 2017).

advice provided to retail investors, whether investing through a retirement account or non-retirement account. Doing so will result in better retirement savings and investment outcomes for all Americans, regardless of where or how they maintain their investments.

We believe an extension until at least July 1, 2019 will provide much needed certainty for the financial services industry to stop spending resources to implement conditions of the Exemptions that may change or be rescinded, and will help limit investor confusion about the standards that apply to the financial institutions and professionals providing services to their retirement accounts. We note that conditioning the delay on a contingent event as proposed by some commenters (such as whether or not a financial institution has shown that it has taken steps or acted in good faith to make reasonable efforts to comply with the rule) would create too much uncertainty and inconsistency across the industry and may create investor confusion as to which standards are applicable at a given time.

We also support an extension of the Department's temporary enforcement policy that corresponds with any extension of the transition period set forth by the Department. The fiduciary rule poses significant challenges with respect to its implementation, and while it is being re-examined and perhaps revised there will be an ongoing need for the temporary enforcement policy to aid financial institutions and professionals in adapting their business models.

For the reasons set forth above, we ask you to delay the applicability of the additional conditions of the Exemptions to at least July 1, 2019. Noting that it will be necessary to provide the industry at least six months to implement any changes prior to the applicability date we also urge the Department to consider a tiered approach such that the transition period would continue until the later of July 1, 2019, or a date that is at least six months after the date on which the Department adopts a final rule making any changes to the fiduciary rule or Exemptions that it determines are necessary based on its study (or determines that no amendments are needed).

We encourage the Department to announce its decision on the delay as soon as possible, so that resources are not unnecessarily spent on developing systems and disclosures that may change.

Thank you for considering our comments on the delay of the additional conditions of the Exemptions. LPL remains dedicated to ensuring that its financial professionals have the tools and resources they need to best serve their clients and to help their clients achieve their retirement goals and other investment objectives.

Sincerely,

Michelle Oroschakoff

Michelle Oroschakoff
Chief Legal & Risk Officer