

November 8, 2023

VIA ELECTRONIC SUBMISSION

Office of Regulations and Interpretations  
Employee Benefit Security Administration  
U.S. Department of Labor  
200 Constitution Ave., NW  
Washington, DC 20210

**Re: RIN 1210-AC02 Retirement Security Rule:  
Definition of an Investment Advice Fiduciary;  
and related exemptions**

Dear Assistant Secretary Gomez:

The undersigned associations request an extension of the 60-day comment period for the Department of Labor's (DOL) Proposed Retirement Security Rule and considerable amendments to a number of Prohibited Transaction Exemptions (Proposed Rule). The Proposed Rule makes significant and unanticipated changes to the current regulatory framework that will require significantly more time for meaningful analysis and comment, and to understand how this proposal would impact access and choice for retirement savers.

This brief of a comment period for a proposed rule on the definition of a fiduciary, is unprecedented. When the 2010 Fiduciary Rule was released, DOL initially had a 90-day comment period, followed by a 14-day extension. DOL then held a public meeting, followed by a 15-day comment period for response. For the 2016 Fiduciary Rule and Related Exemptions, DOL allowed a 75-day comment period and granted a 15-day extension. After a public hearing, there was then another 15-day comment period. We believe that DOL should again provide at least a similar comment period, especially for a proposal that is nearly 500 pages long.

Additionally, the timing of the publishing of the Proposed Rule in the Federal Register means that the comment period will fall over multiple federally recognized holidays. This only further complicates and limits the ability of industry stakeholders and other interested parties to provide meaningful input on the Proposed Rule.

DOL has had nearly three years to publish a proposed rule, but has only granted 39 workdays for interested parties to review and comment. An extension would benefit not only the commenters, but DOL itself. DOL should use comments as a resource, but providing too short of a comment period limits the possible benefits. Furthermore, DOL's stated intention to hold a public hearing approximately 45 days after the Proposed Rule's publication in the Federal Register effectively shortens the 60-day comment period for those who request to testify at the hearing because they will need to prepare their comments in time for the hearing. By setting the hearing date before the close of the comment period, DOL is communicating that this is merely a "check the box" exercise, rather than an effort to receive helpful feedback. Holding the hearing after the end of the comment period would allow for DOL to ask questions about the comments

that they have received, fostering clarification and better understanding. Commenters would also be able to provide feedback to the department on the input provided by others.

We urge DOL to grant at least a 60-day extension of the comment period for the Proposed Rule and to schedule the public hearing for a date after the initial comment period closes, followed by an additional 30-day comment period. Considering that DOL has spent almost three years crafting the Proposed Rule, it strikes us that affording all interested stakeholders sufficient time to provide meaningful feedback would be in DOL's interest. Please do not hesitate to contact the undersigned associations if you have any questions.

Respectfully Submitted,

Alternative & Direct Investment Securities Association (ADISA)

American Bankers Association (ABA)

American Benefits Council (ABC)

American Council of Life Insurers (ACLI)

Committee of Annuity Insurers (CAI)

Financial Services Institute, Inc. (FSI)

Finseca

Indexed Annuity Leadership Council (IALC)

Institute for Portfolio Alternatives (IPA)

Insured Retirement Institute (IRI)

Investment Company Institute (ICI)

National Association for Fixed Annuities (NAFA)

National Association of Insurance and Financial Advisors (NAIFA)

Securities Industry and Financial Markets Association (SIFMA)

SPARK Institute

The ERISA Industry Committee (ERIC)

The ESOP Association

U.S. Chamber of Commerce