



Submitted electronically: EBSA.FiduciaryRuleExamination@dol.gov

April 17, 2017

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

RE: **RIN 1210-AB79** – Reexamination of the Fiduciary Duty Rule

Dear Acting Secretary Hugler:

Fidelity & Guaranty Life Insurance Company (“FGL”) writes to comment regarding the Department of Labor’s (“Department”) reexamination of the Fiduciary Duty Rule (“the Rule”)¹ as directed by President Donald Trump in his February 3, 2017 White House Memorandum (“the Memorandum”).²

FGL is a life insurance company. For over 50 years, FGL has been helping middle income Americans prepare for retirement and unexpected loss of life. As of September 30, 2016, FGL had approximately 700,000 policyholders relying on the safety and protection features of its fixed annuity and life insurance products. FGL offers products through a network of approximately 200 independent IMOs that in turn represent an estimated 35,000 independent agents.

FGL is a member of the National Association for Fixed Annuities (“NAFA”) and strongly supports and incorporates by reference in full the views expressed by NAFA in its comment letter regarding reexamination of the Rule. This includes deep disappointment with the decision by the Department in the “Delay Rule” to proceed on June 9, 2017 with implementation of the Rule and implementation of the impartial conduct standards under the accompanying prohibited transaction exemptions (PTEs) during the time the Rule is being reexamined pursuant to the Memorandum. FGL believes proceeding in this manner violates the Memorandum, violates basic administrative procedures act requirements, will cause great havoc in the industry, and is a disservice to Americans saving for retirement.

It is particularly disconcerting that the Delay Rule adopts an entirely new regulatory scheme during the reexamination period without having provided adequate notice, implementation lead time, or any semblance of clarification from the Department on what exactly is required during this interim period. During this period from June 9 to December 31, 2017 the fixed annuity industry is forced to comply

¹ 81 FR 20946, April 8, 2016.

² 82 FR 9675, February 7, 2017.

Fidelity & Guaranty Life Insurance Company | Two Ruan Center | 601 Locust Street, Suite #1400, Des Moines, IA
50309
1 888 697 LIFE | 515 244 1199 (fax) | www.fglife.com

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with a largely undefined pre-Best Interest Contract Exemption or alternatively comply with a makeshift old PTE 84-24 engrafted with impartial conduct standards. All of this was created out of whole cloth and took the entire financial services industry by surprise which had expected the Rule would be delayed until the reexamination was completed pursuant to the President's directive in order to avoid confusion in the IRA marketplace and to proceed in a more orderly manner in the true "best interests" of the American public. Accordingly, like NAFA, FGL urges the Department to honor the President's directive and avoid unleashing chaos in the financial services marketplace by postponing the applicability date of the Rule and any application of the impartial conduct standards beyond June 9, 2017.

As for the reexamination itself, again, FGL supports in full the comments submitted by NAFA. The Rule is to be examined to determine whether it will (1) adversely affect the ability of Americans to access financial products and services, (2) cause dislocations and disruption in the financial services marketplace, and (3) increase litigation that will drive up prices of retirement products and services. It is self-evident that the President raised these questions knowing full well those are the exact effects of the Rule and any honest reexamination will conclude this Rule runs directly contrary to the President's public policy vision and should be reversed. As explained in the NAFA Comment Letter, the real world effect of this flawed, ill-conceived Rule will be to limit the choices available to low and middle income Americans trying to save for retirement, kill thousands of good paying jobs, ruin hundreds of successful businesses, and provide its greatest benefit to plaintiffs lawyers.

For these reasons, FGL believes strongly that the Rule should ultimately be rescinded. Please do not hesitate contacting our company if additional information or clarification is needed.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Marhoun", with a long horizontal flourish extending to the right.

Eric Marhoun
Executive Vice President, General Counsel & Secretary

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