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BDA Comment Letter to DOL on Proposed 60-Day Delay to Applicability Date of the Fiduciary Duty Rule.

The Department of Labor proposed a 60-day delay to the applicability date of the fiduciary duty rule. Comments on the 60-day delay were due by Friday, March 17th.

The comment letter, submitted by the BDA, is [here](#). Please feel free to reach out to jvahey@bdamerica.org with any comments or questions.

BDA Comment Letter Summary

- BDA expresses support for the 60-day delay and recommends a longer, 180-day delay
- BDA notes that the Labor Department's economic cost-benefit analysis overstates benefits to investors because the analysis is based on mutual fund fees and not commissions and markups and markdowns from bond trades, which are less expensive than mutual fund fees
- BDA reminds the Labor Department of the existing investor protections of the broker-dealer regulatory regime

DOL Temporary Enforcement Memorandum

On March 10th, the DOL published a Temporary Enforcement Memorandum, which provides guidance on how the DOL plans to enforce the rule if the proposed rule to delay the applicability date is not adopted or is not adopted until after the April 10 applicability date.

1. In the event the Department issues a final rule after April 10 implementing a delay in the applicability date of the fiduciary duty rule and related PTEs, the Department will not initiate an enforcement action because an adviser or financial institution did not satisfy conditions of the rule or the PTEs during the "gap" period in which the rule becomes applicable before a delay is implemented, including a failure to provide retirement investors with disclosures or other documents intended to comply with provisions of the rule or the related PTEs.
2. In the event the Department decides not to issue a delay in the fiduciary duty rule and related PTEs, the Department will not initiate an enforcement action because an adviser or financial institution, as of the April 10 applicability date of the rule, failed to satisfy conditions of the rule or the PTEs provided that the adviser or financial institution satisfies the applicable conditions of the rule or PTEs, including sending out required disclosures or other documents to retirement investors, within a reasonable period after the publication of a decision not to delay the April 10 applicability date. The Department will also treat the 30-day cure period under Section IX(d)(2)(vi) of the BIC Exemption and Section VII(d)(2)(v) of the Principal Transactions Exemption as available to financial institutions that, as of the April 10 applicability date, did not provide to retirement investors the disclosures or other documents described in Section IX(d)(2)(vi) of the BIC Exemption and Section VII(d)(2)(v) of the Principal Transactions Exemption.

Bond Dealers of America

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