



May 5, 2015

Submitted via email to e-ORI@dol.gov

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

RE: Comment Period for Definition of the Term “Fiduciary,” RIN 1210-AB32

Dear Sir or Madam:

On behalf of the American Benefits Council (the “Council”), I am writing today to request an extension of the 75-day comment period with respect to the proposed new definition of a fiduciary and the accompanying proposals to add two new prohibited transaction exemptions and to modify other exemptions. The Council appreciates the importance of this project and wants to ensure that our membership has adequate time to fully analyze the impact of the proposed guidance and provide the information and input the Department has asked for in the reproposal.

The Council is a public policy organization representing principally Fortune 500 companies and other organizations that assist employers of all sizes in providing benefits to employees. Collectively, the Council’s members either sponsor directly or provide services to retirement and health plans that cover more than 100 million Americans.

The Council’s members have a strong interest in the fiduciary reproposal. A review of the reproposal since its issuance has revealed that a great deal of new work has been done by the Department since the 2010 proposal. The new package is significantly longer and more complex than the original proposal and

the 2010 proposal had a longer comment period. In this regard we note that, although many positive changes are included in the reproposal – such as excepting out from the fiduciary definition certain internal employees providing support to fiduciaries – the reproposal represents a fundamental change in a very broad regulatory approach to the fiduciary rules, which in turn will have a substantial impact on plans and participants and those providing services to them. The Council and its members need sufficient time to review and analyze the package to ensure that we can provide the Department with the input it has requested.

In this context, we ask that the 75-day comment period be extended. Time would be beneficial to enable a more comprehensive evaluation of issues that are already being identified by Council members. By way of example, the Council has begun to receive input on areas that would benefit from refinement and additional clarification so that plan sponsors can work effectively with their providers to ensure compliance and avoid confusion. Specifically, plan sponsors are raising concerns about possible adverse effects on investment assistance and education. Additional time for comments would be beneficial to consider the impact of the Department's changes in this area as plan sponsors evaluate these and other issues raised in the proposed regulation and exemptions. Likewise, additional time would be helpful as we consider the reproposal's potential fiduciary treatment of conversations between employees.

In summary, we believe that time is necessary to ensure that there is careful analysis and thought given to the implementation of and compliance with the new definition and the proposed exemptions. Indeed, quite often with significant changes such as this, plan sponsors find it helpful to wait for service providers to raise issues before they respond so that they can better evaluate what steps may need to be taken to, for example, restructure their service arrangements. Plan sponsors also need to consider how the changes will affect their interactions with employees and plan participants and beneficiaries. Service providers, like other interested parties, are still reviewing the reproposal in an effort to understand its effect on their businesses and what changes will need to be made to comply with the reproposal.

We very much appreciate the opportunity to comment. We know that the Department is looking for additional information on certain aspects of the reproposal and on the reproposal in general and that it is dedicated to getting the best possible input it can from plan sponsors, service providers and other interested parties. In order for this to occur, the Department needs to provide sufficient time for that level of review and consideration of the reproposal to be performed.

We thank you for your consideration of our request.

Sincerely,

A handwritten signature in black ink, appearing to read "Jan Jacobson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jan Jacobson
Senior Counsel, Retirement Policy
American Benefits Council

cc: Phyllis Borzi
Assistant Secretary of Labor of EBSA

Joe Canary
Director, Office of Regulations and Interpretations, EBSA

Timothy D. Hauser
Deputy Assistant Secretary for Program Operations, EBSA

Judy Mares
Deputy Assistant Secretary, EBSA

Jeff Turner
Deputy Director, Office of Regulations and Interpretations, EBSA