Economic Policy Institute

EPI comment on extending the applicability date of portions of the fiduciary rule

Testimony • By Heidi Shierholz • July 21, 2017

Office of Exemption Determinations
Employee Benefits Security Administration
Attention: D-11933
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

RE: Request for Information Regarding the Fiduciary Rule
And Prohibited Transactions Exemptions

RIN 1210-AB82

To the Department of Labor:

The Economic Policy Institute (EPI) is a nonprofit, nonpartisan think tank created in 1986 to include the needs of low- and middle-income workers in economic policy discussions. On behalf of EPI, I write to express our strong opposition to any further delay in the full implementation and enforcement of the fiduciary rule. In particular, we object to any delay in the January 1, 2018, applicability date of the provisions in the BIC Exemption, Principal Transactions Exemptions, and amendments to PTE 84-24. People who have worked hard to save for retirement need and deserve all of the provisions of the fiduciary rule to be fully implemented and enforced.

The rule has already been delayed. In the second week of his presidency, President Trump directed the department to prepare an analysis concerning the likely impact of the rule—despite the fact that the department had just completed a roughly six-year exhaustive vetting process that produced a nearly 400-page economic analysis on the likely impact of the rule which incorporated feedback from four days of hearings, more than 100 stakeholder meetings, and thousands of public comments. As a result, the entire rule was delayed by 60 days—a delay that we estimate will end up costing retirement savers $3.7 billion over the next 30 years. (Note that if there is a delay, losses to retirement investors persist and compound long after the delay ends. The department itself has noted that as a result of a delay, the losses to retirement investors would “continue to accrue until affected investors withdraw affected funds or reinvest them pursuant to new recommendations“ and that losses up to that point “would not be recovered, and would continue to compound, as the accumulated losses would have reduced the asset base that is available later for reinvestment or spending.”)

Following the 60-day delay, portions of the rule went into effect on June 9, 2017. However, portions were further delayed until January 1, 2018. We estimate the cost to retirement savers of this further nearly seven-month delay will be $3.9 billion dollars over the next 30 years. (Please see the attached detailed methodology underlying our estimate.)

And now, the department is considering an even greater delay of these valuable provisions. **We estimate the cost to retirement savers of each additional year of delay to be $7.3 billion dollars over the next 30 years.** Given the large, persistent losses suffered by retirement investors as a result of a further delay of these provisions, we oppose any delay of the full implementation and enforcement of the rule.

Retirement investors need and deserve to receive the protections of the full fiduciary rule. The department should conclude that the fiduciary rule should become fully applicable on January 1, 2018, as currently scheduled.

Sincerely,

Heidi Shierholz

Senior Economist and Director of Policy at the Economic Policy Institute

Attachment: Methodology for estimating the losses to retirement investors of further delaying full implementation of the fiduciary rule.