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April 17, 2017

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

Re: RIN 1210-AB79, "Fiduciary Rule Examination – Comments on the Presidential Memorandum"

Dear Ms. Grillo-Chope,

As State Treasurer of Oregon, I write to register my concerns with the content of the Presidential Memorandum on the Fiduciary Rule, dated February 3, 2017. The Memorandum directs the Department of Labor ("Department") to examine the Fiduciary Duty Rule ("Rule") (81 Fed. Reg. 20946; April 8, 2016) to "determine whether it may adversely affect the ability of Americans to gain access to retirement information and financial advice." The Department shall then "prepare an updated economic and legal analysis" of the likely impact of the Rule.

My first concern is the value of undertaking a new analysis of the Rule. The economic and legal analysis described in the Memorandum already exists. The 2016 Regulatory Impact Analysis ("RIA") of the Rule was the result of a six-year process and incorporated the feedback of thousands of public comments over several comment periods. That 382-page document determined that the Rule's benefits to American consumers far outweigh the costs to investment firms. In addition, the 2016 RIA already explicitly answers the questions presented in the Presidential Memorandum. Undertaking a redundant study of this issue over an abbreviated time frame is a waste of both Department time and taxpayer dollars. Indeed, the only logical reason for such a study is to establish a rationale for rescinding or significantly altering the Rule.

My second concern is the Memorandum's lack of attention to the impact the delayed implementation will have on American consumers. The 2016 RIA determined that conflicted advice is

widespread in the industry, causing appreciable harm to plan and IRA investors. In fact, the Obama Administration's White House Council of Economic Advisors found that conflicted advice costs retirement savers \$17 billion annually.¹ The RIA estimated that increased consumer protections in compliance with the Rule would cost investment firms \$16 billion over 10 years, but reduce investment losses to consumers by between \$33 billion and \$36 billion over that same period. The Presidential Memorandum sets forth priorities to "facilitate [Americans'] ability to save for retirement and build the individual wealth necessary to afford typical lifetime expenses," then asks for an analysis based on whether "anticipated applicability" of the Rule "has harmed or is likely to harm investors." The data and the Rule already acknowledge that harm is currently inflicted on retirement savers because standards ensuring impartial advice do not exist. By focusing on "anticipated" harm to the industry, the Memorandum completely ignores the past, present, and ongoing harm to American consumers.

My final concern is the Department's invitation to comment on whether the industry has already responded in such a way that if the Rule were rescinded, the regulated community, or a subset of that community, would continue to abide by the Rule's standards. While it is true that some companies within the investment industry have launched campaigns advertising that they are already operating under a "best interest" standard², this question starts with an underlying assumption that: a) those companies will continue to implement this standard without a regulation in place; and b) other companies will follow suit. I find the premise that the industry will self-regulate whether they act in the consumer's best interest as inherently flawed. If this were possible, all actors in this industry would already act as fiduciaries. This has not been the case and is precisely why the Fiduciary Rule is both necessary and overdue.

As State Treasurer, I am responsible for protecting the financial health of the state and all Oregonians, including individual investors. The Fiduciary Rule protects the public, plain and simple. Rescinding or significantly revising the Fiduciary Rule protects unscrupulous financial advisers at the cost of retirement security for the Oregonians I represent. I strongly urge the Department to implement the Fiduciary Rule as originally written and as soon as practicable.

Sincerely,



Tobias Read

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¹ Executive Office of the President, Council of Economic Advisors, "The Effects of Conflicted Investment Advice on Retirement Savings" 2 (Feb. 2015).

² "Merrill Lynch Showcases DOL Stance in New Ads," WealthManagement.com (Nov. 3, 2016), <http://www.wealthmanagement.com/industry/merrill-lynch-showcases-dol-stance-new-ads>; Liz Skinner, "Barrage of Schwab ads to proclaim fiduciary advisers," Investment News (Jun. 16, 2016), <http://www.investmentnews.com/article/20160616/FREE/160619940/barrage-of-schwab-ads-to-proclaim-virtues-of-fiduciary-advisers>.