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ICI Seeks Delay of Remaining Conditions in Fiduciary Rule to Mitigate Harm to Retirement Savers

Urges Immediate Delay and Completion of Rule Changes Within a Year

Washington, DC, July 21, 2017—The Department of Labor (DOL) must immediately delay the January 1, 2018, applicability date for the remaining elements of its fiduciary rulemaking to provide needed certainty and reduce harm to investors, the Investment Company Institute (ICI) tells the DOL in a comment letter today. Those elements are the conditions of the Best Interest Contract Exemption (BICE) and other exemptions related to the rulemaking, the letter noted. The fiduciary rule itself and Impartial Conduct Standards would continue to apply during the delay.

"The DOL should delay the January 1, 2018, implementation date of its fiduciary rulemaking to reduce harm to investors and provide certainty to the industry while the agency considers additional modifications to the rule and exemptions," says ICI Acting General Counsel Dorothy Donohue. "Delay will also give Labor Secretary Alexander Acosta the needed time to coordinate fiduciary rulemaking with Securities and Exchange Commission Chair Jay Clayton—which is the most desirable way to achieve a consistent approach that puts investors' interests first."

ICI's letter urges the DOL to issue an interim rule by August 15, 2017, that will delay the January 1, 2018, BICE implementation date until January 1, 2019. ICI asked the DOL to simultaneously announce that it expects to finalize modifications to the rule and the relevant exemptions before the end of any delay period. ICI also requests that the DOL declare now that these changes will not take effect until at least January 1, 2020—one year after they are finalized.

ICI's letter provides the following justification for a delay:

- The DOL undoubtedly will propose modifications to the fiduciary rule and related prohibited transaction exemptions.
- The DOL has already effectively concluded that delaying the January 1, 2018, applicability date will not negatively affect investors.
- Clear evidence exists that investors will be harmed from a failure to delay.
- Implementation costs are—and will continue to be—significant. ICI's recommended delay would limit service providers' unnecessary "sunk" costs incurred to implement conditions that are ultimately removed or modified.

Recent ICI comment letters to the DOL relating to the agency's fiduciary rule include:

- ICI Welcomes Delay of Fiduciary Rule, Urges Additional Delay to Avoid Market Disruption and Harm to Investors, April 4, 2017
- DOL's Delay of Fiduciary Rule Justified to Avoid Costs, Disruptions for Retirement Savers, March 17, 2017

Additional pertinent resources can be found in ICI's DOL Fiduciary Duty Rule Resource Center.