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DOL Fiduciary Rule Officially Delayed

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On April 4, 2017, the Department of Labor ("DOL") issued a final rule extending by 60 days the applicability date of the final "fiduciary" regulation published a year ago (known colloquially as the "Fiduciary Rule"). Originally, the effective date for the Fiduciary Rule was April 10, 2017, and now the revised effective date is June 9, 2017.

The Fiduciary Rule defines who is a fiduciary under the Employee Retirement Income Security Act of 1974, as amended ("ERISA") by reason of providing investment advice to ERISA plans. The new fiduciary definition also impacts IRAs because this definition would govern for purposes of determining whether a transaction involving an IRA violates the prohibited transaction rules under the Internal Revenue Code of 1986, as amended. Click here for our prior alert discussing the Fiduciary Rule.

The DOL also extended the applicability date for the Best Interest Contract Exemption, the Principal Contract Exemption, and the other revised exemptions that are companion parts to the Fiduciary Rule by 60 days. Further, the DOL requires fiduciaries relying on the new and revised exemptions to comply only with the impartial conduct standards in the exemptions during a transition period from June 9, 2017, through January 1, 2018. Fiduciaries are not required to comply with the remaining conditions of these exemptions (i.e., written disclosures and representations) until January 1, 2018.

This extension is a response to a memorandum from President Trump to the DOL directing an examination of the Fiduciary Rule to determine whether it may adversely bear on Americans' ability to obtain retirement information and financial advice. In response to the directive, the DOL proposed a 60-days extension of the applicability of the Fiduciary Rule and related prohibited transaction exemptions on March 2, 2017. The DOL received approximately 193,000 comments on this proposed delay. According to the DOL, 178,000 commenters opposed any delay, but the DOL chose to delay the effective date anyway.

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