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DOL Fiduciary Rule To Become Effective in June

By Diane Dygert and Jennifer Neilsson

In early April 2017, the Department of Labor (DOL) extended the applicability date of their final rule defining who serves as a fiduciary under the Employee Retirement Income Security Act of 1974 (ERISA) (known as the "Fiduciary Rule") to June 9, 2017. See our earlier discussion of that action here.

In an opinion piece in the *Wall Street Journal* published yesterday, Secretary of Labor Alexander Acosta announced that the DOL Fiduciary Rule will not be further delayed past June 9th, noting there is "no principled legal basis to change the June 9 date while we seek public input."

The delay to June 9th included certain companion pieces to the Fiduciary Rule which provide exemptions to the prohibited transaction restrictions under ERISA—the Best Interest Contract Exemption and the Principal Contract Exemption. The April extension made it clear that fiduciaries relying on those exemption only had to comply with the impartial conduct standards through the end of the 2017 year. The remaining conditions would become effective January 1, 2018. However, Secretary Acosta observed that those pieces might be changed after the public notice and comment period, which has been the subject of speculation.

Also published yesterday, the DOL issued Field Assistance Bulletin 2017-02 regarding their temporary enforcement policy on the Fiduciary Rule and companion FAQs.

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