

DOL DELAYS FIDUCIARY RULE APPLICABILITY DATE

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Practices & Industries

Employee Benefits

The Department of Labor's final rule defining fiduciary investment advice will now become applicable on June 9, 2017. The rule was originally set to become applicable on April 10th of this year, but just days before, DOL published a rule extending its applicability date by 60 days while it re-examines the rule in response to a February 3rd memorandum issued by President Trump. Our recent client alert discussing the rule, related prohibited transaction exemptions, and President Trump's memorandum, is available here <http://www.hodgsonruss.com/newsroom-publications-9695.html>

The following timelines will now apply for the rule and related prohibited transaction exemptions:

1. The final rule defining fiduciary investment advice will be fully applicable as of June 9, 2017.
2. The newly created Best Interests Contract ("BIC") Exemption and Class Exemption for Principal Transactions will become applicable on June 9, 2017, but their conditions will be phased in. Specifically, investment advisers utilizing the exemptions will only need to comply with their impartial conduct standards (including the best interest standard) during a transition period through January 1, 2018. All other conditions of the exemptions must be complied with as of January 1, 2018.
3. Amendments to certain related prohibited transaction exemptions will become applicable on June 9, 2017. For amendments to Prohibited Transaction Exemption 84-24 (relating to annuities), impartial conduct standards will become applicable on June 9, 2017, and the remaining amendments to the exemption will become applicable on January 1, 2018.

Between now and January 1, 2018, DOL plans to complete its re-examination of the rule and decide on whether or not to propose any changes to it or the related prohibited transaction exemptions. DOL has noted that it does not believe a longer delay of the fiduciary definition or impartial conduct standards can be justified in light of its previous findings of harm to retirement investors. However, DOL also noted that its approach in allowing the fiduciary definition and impartial conduct standards to become applicable on June 9, 2017 does not prevent it from re-considering or making changes to the definition or related prohibited transaction

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exemptions based on new evidence or analyses that arise as a result of its re-examination in response to President Trump's memorandum.

