DOL'S FINAL FIDUCIARY RULE IS NOW APPLICABLE!

Hodgson Russ Newsletter
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On June 9, 2017, the Department of Labor's ("DOL") final rule defining fiduciary investment advice became applicable. The newly created Best Interests Contract Exemption and Class Exemption for Principal Transactions also became applicable on that date, but their conditions will be phased in through January 1, 2018. Amendments to certain related prohibited transaction exemptions also became applicable on June 9th. On May 22, 2017, shortly before the applicability date, DOL issued a Temporary Enforcement Policy in which it specifically states that, during the transition period, it will not pursue claims against, or otherwise target, any fiduciary working diligently and in good faith to comply with the rule and related exemptions. Rather, DOL's goal will be to provide compliance assistance to plans, plan fiduciaries, financial institutions, and others. DOL also issued a Transition Period FAQ on May 22nd that, in addition to discussing compliance requirements during the June 9, 2017 to January 1, 2018 transition period, provides examples of application of the new fiduciary rule in specific scenarios. It should be noted that both items of guidance released on May 22nd make clear that DOL's re-examination of the rule and related exemptions is not complete. In particular, DOL announced that it plans to soon release a public Request for Information seeking further input on potential changes to the rule and related exemptions in light of recent public comment and developments in the market.

For more details regarding the rule, related exemptions, and related procedural history, please see our previous articles on the subject here and here. DOL also maintains a site dedicated to the rule and related exemptions here.

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