

February 6, 2017

President Signs Memorandum Requiring Further Review of DOL Fiduciary Rule

On February 3, 2017, President Trump signed a presidential memorandum directing the U.S. Department of Labor (the “DOL”) to examine its new fiduciary rule. (For details on the fiduciary rule, see our prior [Alert](#), and, for details on the related DOL-issued FAQs, see our prior [Alert on the First FAQ](#) and [Alert on the Second FAQ](#).) Contrary to initial reports based on a leaked draft memorandum, the final memorandum does not delay the applicability date of the rule (April 10, 2017). However, following the signing of the memorandum, the acting U.S. Secretary of Labor issued a statement that the DOL will consider its legal options for delay. Ropes & Gray is continuing to monitor developments on the rule and its status.

The text of the presidential memorandum requires the DOL to examine the rule to determine whether it may adversely affect access to retirement information and financial advice, and, as part of that examination, to prepare an updated economic and legal analysis on the rule. This analysis is required to consider, among other things, (i) the potential harm to investors due to a reduction in access to certain products and information, (ii) whether the retirement services industry’s actions in preparation for the rule may adversely affect retirement investors or retirees and (iii) whether the rule is likely to increase litigation and the price to gain access to retirement services. If the DOL determines that the rule would result in any of these enumerated harms or otherwise be inconsistent with the goal of permitting retirement investors to make their own financial decisions to save for retirement and build the individual wealth necessary to afford typical lifetime expenses, then it is required to publish for notice and comment a proposed rule rescinding or revising the fiduciary rule.

For more information on the current status of the DOL’s fiduciary rule, please contact any member of Ropes & Gray’s [ERISA](#) practice group.