

July 6, 2017

## Department of Labor Requests Information on Fiduciary Rule

On July 6, 2017, the U.S. Department of Labor (the “DOL”) published a public request for information on the fiduciary rule. Although the request does not contain substantive guidance on the rule or on how the DOL is interpreting it, the questions included in the request may give clues about the DOL’s thinking on possible changes or additions to the rule and the associated prohibited transaction exemptions. The DOL has asked for input on 18 different questions covering a variety of topics, including:

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- whether the January 1, 2018 compliance date for the best interest contract exemption (the “BIC”) should be extended;
- how the need to comply with the full BIC will impact investor access to investment advice and choices;
- possible streamlining of the BIC;
- alternative exemptions that are more streamlined and focused on specific compliance strategies such as using “clean shares” or on compliance with other fiduciary rules (such as future SEC rules);
- the grandfathering rules that exempt from the rule investments made prior to June 9; and
- whether changes should be made to the exclusion for communications with sophisticated independent fiduciaries.

The deadline for comments on these questions is generally 30 days (comments are due by August 7, 2017), but a shorter 15-day comment period applies to the question of whether the compliance date for the full BIC should be delayed (comments are due by July 21, 2017). The DOL has not indicated its expected timing for proposed revisions to the rule, and institutions should be mindful of the calendar in assessing whether to expend resources on efforts to comply with requirements that are not currently effective while the DOL considers potential changes. This calculus may change over time as the January 1, 2018 compliance date approaches.

For guidance on complying with the fiduciary rule, see our prior Alert on [Key Considerations for Asset Managers](#). Further information on the rule can be found in our [Alert on the Final Rule](#) and our [Alert on the Final Delay](#); and for details on the DOL FAQs, see our prior [Alert on the First FAQ](#), [Alert on the Second FAQ](#), and [Alert on the Transition Period FAQs](#).

If you would like to discuss the impact that the fiduciary rule may have on any aspect of your business, or if you would like help drafting a comment letter to the DOL, please feel free to reach out to any of the attorneys listed above.