

November 29, 2017

Department of Labor Releases Final 18-Month Delay in Applicability Date for Portions of Fiduciary Rule

On November 29, 2017, the U.S. Department of Labor (the “DOL”) published final amendments to the Best Interest Contract Exemption and other exemptions that delay the applicability date of many of the requirements for compliance with the fiduciary rule from January 1, 2018 until July 1, 2019. The release largely mirrors the DOL’s prior proposal, including statements from the DOL that the delay is intended to provide more time to consider public comments and to coordinate with the SEC on possible changes or alternatives to the rule.

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The DOL has also elected to extend the temporary enforcement relief policy that it adopted under Field Assistance Bulletin 2017-03. As a result, the DOL will not pursue claims against or treat fiduciaries as being in violation of the rule if they are working diligently and in good faith to comply.

Echoing previous statements, the DOL also announced in the release that it plans to propose a new “more streamlined” class exemption relating to investment advice in the near future.

Now that the delay is official, financial institutions can make plans without needing to fear significant regulatory changes in the near term. Key areas of focus for asset managers should include:

- Reviewing current practices and policies for fiduciaries, including compensation structures and practices, to determine whether they are sufficient to mitigate conflicts;
- Reviewing ongoing technological build-outs to determine whether they should be continued or put on hold in light of the delay; and
- Reviewing investor communications materials, including marketing materials and ongoing communications with investors, and investor requirements to determine which touch points may result in fiduciary recommendations.

For details on the requirements of 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 have any other questions about the rule, please feel free to reach out to any of the attorneys listed above.