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18-Month Delay for Fiduciary Rule's Transition Period

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On Thursday, August 31, 2017, the Department of Labor (the "DOL") published a proposed extension of the transition period and applicability date for the fiduciary regulation's (the "Fiduciary Rule") best interest contract exemption (the "BICE") and the principal transaction exemption. The DOL proposed amendment would also extend the applicability date of certain amendments to Prohibited Transaction Exemption ("PTE") 84-24, which applies to advisory transactions involving insurance and annuity contracts, and mutual fund shares.

The current transition period is from June 9, 2017, to January 1, 2018. The DOL proposes to delay this transition period by 18-months — to end on July 1, 2019. The proposal states the primary reason for this delay is to give the DOL "the time necessary to consider possible changes and alternatives to these exemptions." The DOL is concerned that "without a delay … regulated parties may incur undue expense to comply with the conditions or requirements that it ultimately determines to revise or repeal." The DOL also notes that is has not yet completed its reexamination of the Fiduciary Rule and PTEs, as directed by President Trump back in February of this year.

The DOL also "anticipates it will propose in the near future a new and more streamlined class exemption built in large part on recent innovations in the financial services industry", but that neither such a proposal nor any changes to the Fiduciary Rule and PTEs "realistically could be implemented by the current January 1, 2018, applicability date."

The DOL is requesting comments regarding this proposed delay by September 15, 2017. Thereafter, the DOL will propose a final rule which will need to be approved by the Office of Budget and Management.

We will continue to monitor the status of the Fiduciary Rule and advise you of any significant developments.

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