

Portions of the DOL Fiduciary Rule to go Forward on June 9, 2017

Labor & Employment Law Update

By Kelly Haab-Tallitsch on May 24, 2017

Secretary of Labor Alexander Acosta announced on Monday that portions of the controversial Department of Labor (DOL) fiduciary rule will go into effect as planned on June 9, 2017, with full implementation of the rule on January 1, 2018. Issued in April 2016, the fiduciary rule expanded the definition of a fiduciary under the Employee Retirement Income Security Act (ERISA) and imposed a higher standard of care and significant new procedural requirements on those providing investment advice to retirement plans, plan sponsors and participants. Implementation of the rule was previously delayed from April 10, 2017 to June 9, 2017 and the recent announcement comes as a surprise to many in light of the President's February 3, 2017 memorandum directing the DOL to review the rule.

The DOL Field Assistance Bulletin No. 2017-02, issued May 22, 2017, announces a temporary enforcement policy related to the fiduciary rule and explains that the expanded definition of a fiduciary and the "impartial conduct standards" requirement for fiduciaries will go into effect on June 9, 2017, with many of the written contract and disclosure requirements effective for 2018. Beginning June 9th, advisers to retirement investors must give advice that's in the best interest of the retirement investor, charge no more than reasonable compensation, and make no misleading statements.

Most importantly, the DOL announced that so long as fiduciaries are working diligently and in good faith to comply with the fiduciary rule the agency will not pursue claims against them or treat those fiduciaries as being in violation of the rule.

What Does This Mean for Your Retirement Plan?

Many of the compliance activities related to the fiduciary rule fall on investment advisors and are occurring behind the scenes for plan sponsors. However plan sponsors will begin to see increased written disclosures from their advisors and lengthier contracts.

What's Next?

The DOL is continuing its review of the rule and has stated that additional changes may be proposed, based on the results of the examination. The agency announced its intention to issue a Request for Information for additional public input, including thoughts on a potential delay to the Jan. 1 effective date.

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