

DOL Proposes to Delay Fiduciary Rule

DOL proposed a 60-day delay in the applicability date for its fiduciary regulation and will take comments on the proposal during the next 15 days. DOL's announcement also includes a 45-day invitation to comment on the questions raised in President Trump's February memorandum about the anticipated impact of the rule.

Background

After years of debate and controversy, the DOL in 2016 finalized the "fiduciary rule" that expanded the scope of the definition of fiduciary for employer-sponsored plans as well as non-ERISA investment vehicles like IRAs and HSAs. The rule is generally scheduled to take effect in April 2017, with certain exemptions effective in 2018. (See our *For Your Information* from [April 22, 2016](#).) Opponents of the rule have tried to derail it through multiple lawsuits and congressional action. (See our [January 9, 2017](#) *Legislate* for the most recent legislative attempt.)

On February 3, 2017, President Trump directed the DOL to re-examine the fiduciary rule. He specifically instructed DOL to consider whether the rule hinders access to certain retirement savings offerings and information; adversely affects investors or retirees by disrupting the retirement services industry; and/or is likely to cause an increase in litigation and prices investors and retirees must pay for retirement services. (See our [February 6, 2017](#) *FYI Alert*.)

DOL Proposes to Push Back Applicability Date, Solicits Comments

Reflecting its concern that a longer delay would be costly to investors, DOL proposes a [60-day delay](#) of the April 10 applicability date to June 9. This delay would allow time for consideration of a new round of public comments, which DOL will collect over the next 45 days, on the issues President Trump's February 3, 2017 memorandum directed the agency to re-examine and other questions that DOL raises in its proposal. The DOL anticipates that, in the time frame the 60-day delay in the applicability date creates, it can complete its re-examination, implement any necessary additional extension, and propose and implement a revocation or revision of the rule if warranted after the review is completed.

Comments on the proposal to provide a 60-day delay are due March 17, 2017. Comments on the re-examination are due April 17.

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