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US LABOR DEPARTMENT EXTENDS FIDUCIARY RULE APPLICABILITY DATE



The U.S. Department of Labor has announced a 60-day extension of the applicability dates of the fiduciary rule and related exemptions, including the Best Interest Contract Exemption. The announcement follows a Feb. 3, 2017, [presidential memorandum](#) which directed the Department to examine the fiduciary rule to ensure that it does not adversely affect the

ability of Americans to gain access to retirement information and financial advice.

Under the terms of the extension, advisers to retirement investors will be treated as fiduciaries and have an obligation to give advice that adheres to “impartial conduct standards” beginning on June 9 rather than on April 10, 2017, as originally scheduled. These fiduciary standards require advisers to adhere to a best interest standard when making investment recommendations, charge no more than reasonable compensation for their services and refrain from making misleading statements.

The Department has requested comments on the issues raised by the presidential memorandum, and related questions. The Department urges commenters to submit data, information and analyses responsive to the requests, so that it can complete its work pursuant to the memorandum as carefully, thoughtfully and expeditiously as possible.

In the period between now and Jan. 1, 2018, when all of the exemptions’ conditions are scheduled to become fully applicable, the Department intends to complete its review under the presidential memorandum and decide whether to make or propose further changes to the fiduciary rule or associated exemptions. In the absence of further action by the

Department, the delay announced today does not affect the requirement to enter into a Best Interest Contract and other requirements that are currently scheduled for Jan. 1, 2018.

Summary of Extensions

The fiduciary definition in the Fiduciary Rule published on April 8, 2016, and impartial conduct standards in these exemptions, are applicable on June 9, while compliance with the remaining conditions in these exemptions, such as requirements to make specific written disclosures and representations of fiduciary compliance in communications with investors, is not required until Jan. 1, 2018.

The relevant applicability dates are changed as follows: The Department extends for 60 days the applicability date of the final regulation, published on April 8, 2016, defining who is a “fiduciary” under the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986. It also extends for 60 days the applicability dates of the Best Interest Contract Exemption and the Class Exemption for Principal Transactions. It requires that fiduciaries relying on these exemptions for covered transactions adhere only to the impartial conduct standards (including the best interest standard), as conditions of the exemptions during the transition period from June 9 through Jan. 1, 2018. The Department also delays the applicability of amendments to Prohibited Transaction Exemption 84-24 (relating to annuities) until Jan. 1, 2018, other than the impartial conduct standards, which will become applicable on June 9. Finally, the department extends for 60 days the applicability dates of amendments to other previously granted exemptions related to fiduciary advice.



The extensions will be published in the April 7, 2017, edition of the *Federal Register* and can also be viewed on the Employee Benefits Security Administration’s website, along with associated documents, at www.dol.gov/ebsa/.



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Who We Are

Torrillo & Associates, LLC specializes in employee benefit plan audits including 401k audits, 403b audits, pension plan audits, and other retirement plan audits. We are licensed in 10 states including Pennsylvania, New Jersey, Delaware, New York and Florida. We are also able to practice in additional states that have passed firm mobility.

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