Fiduciary Rule Law as of June 9, 2017 but DOL will not Enforce until January 1, 2018 as it Seeks Pubic Input on the Rule, Considers Changes and Additional Delays



On May 22, 2017 Alexander Acosta, the Secretary of the Department of Labor ("DOL") wrote an opinion piece in the Wall Street Journal on the Fiduciary Rule. In it he states:

"The Labor Department has concluded that it is necessary to seek additional public input on the entire Fiduciary Rule, and we will do so. We recognize that the rule goes into partial effect on June 9, with full implementation on Jan. 1, 2018. Some have called for a complete delay of the rule.

We have carefully considered the record in this case, and the requirements of the Administrative Procedure Act, and have found no principled legal basis to change the June 9 date while we seek public input. Respect for the rule of law leads us to the conclusion that this date cannot be postponed. Trust in Americans' ability to decide what is best for them and their families leads us to the conclusion that we should seek public comment on how to revise this rule. "

He also indicated that the "Fiduciary Rule as written may not align with President Trump's deregulatory goals." As a result, on May 22, 2017, the DOL released Field Assistance Bulletin No. 2017-02, in which the DOL states that "during the phased implementation period ending on January 1, 2018, the Department will not pursue claims against fiduciaries who are working diligently and in good faith to comply with the fiduciary duty rule and exemptions, or treat those a being in violation of the fiduciary duty rule and exemptions."

Plan sponsors, advisors and others need to make their own legal determinations and should read Field Assistance Bulletin 2017-02, Temporary Enforcement Policy on Fiduciary Duty Rule, in its entirety. Guidance from Field Assistance Bulletin No. 201702 states:

> The Department is actively engaging in a careful analysis of the issues raised in the President's Memorandum. It is possible, based on the results of the examination, that additional changes will be proposed to the fiduciary duty rule and PTEs. The Department also intends to issue a Request for Information (RFI) in the near future seeking additional public input on specific ideas for possible new exemptions or regulatory changes based on recent public comments and market developments. The Department is also aware that after the fiduciary duty rule and PTEs were issued firms have begun to develop new business models and innovative market products to mitigate conflicts of interest. The RFI will specifically ask for public comment on whether it is likely to take more time to implement these new approaches than what the Department envisioned when it set January 1, 2018, as the applicability date for full compliance with all of the exemptions' conditions, and, if so, whether an additional delay in the January 1, 2018 applicability date would reduce burdens on financial services providers and benefit retirement investors by allowing for a smoother implementation of those market changes.
>
> Although the Department has a statutory responsibility and broad authority to investigate or audit employee benefit plans and plan fiduciaries to ensure compliance with the law, compliance assistance for plan fiduciaries and other service providers is also a high priority for the Department. The Department has repeatedly said that its general approach to implementation will be marked by an emphasis on assisting (rather than citing violations and

imposing penalties on) plans, plan fiduciaries, financial institutions, and others who are working diligently and in good faith to understand and come into compliance with the fiduciary duty rule and exemptions. Consistent with that approach, the Department has determined that temporary enforcement relief is appropriate and in the interest of plans, plan fiduciaries, plan participants and beneficiaries, IRAs, and IRA owners.

Accordingly, during the phased implementation period ending on January 1, 2018, the Department will not pursue claims against fiduciaries who are working diligently and in good faith to comply with the fiduciary duty rule and exemptions, or treat those fiduciaries as being in violation of the fiduciary duty rule and exemptions.[1]

To the extent that circumstances surrounding the applicability date of the fiduciary duty rule and exemptions give rise to the need for other temporary relief, EBSA will consider taking such additional steps as necessary.

This Bulletin is an expression of EBSA's temporary enforcement policy; and it does not address the rights or obligations of other parties.

Torrillo & Associates
Benefit Plan Audit Specialists

Phone:

Email:

Address:

	_____
	_____

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.

Recent Articles

- EPCRS Updated and New ICRS Program Established for Correcting IRA Errors
- IRS Announces Cycle 4 Adoption Deadline for Defined Contribution Pre-Approved Plans
- IRS Issues, Rev. Proc. 2026-30, Application Procedures for Letter Rulings and Nonbank Trustee Approval Letters from IRS Employee Plans
- DOL Issues Proposed Rule for Fiduciary Duties in Selecting Designated Investment Alternatives

Site Navigation

- Home
- About
- Services

- Careers
- Clients
- Videos
- Blog
- FAQs
- Contact Us
- Privacy Policy
- Terms of Use

Search The Site

Search for: Search

- RSS

© 2010 to 2026 Torrillo & Associates, LLC (Now LBMC Pennsylvania) - 36 Regency Plaza, Glen Mills, PA 19342 | Site Development and Marketing by Client by Design