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# Torrillo & Associates

Benefit Plan Audit Specialists

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## Fifth Circuit Court Vacates Fiduciary Rule



**Fifth Circuit Court Vacates  
Fiduciary Rule**

On March 15, 2018, in a [2-to-1 decision, the U.S. Court of Appeals for the Fifth Circuit](#) reversed a lower court decision in Texas and issued a ruling vacating the Labor Department's fiduciary rule. The decision creates a circuit split as the 10<sup>th</sup> Circuit Court of Appeals had previously issued a unanimous decision upholding the [fiduciary rule](#).

## What Happens Now?

What happens now is uncertain. If the Department of Labor ("DOL") continues to defend the rule or if consumer advocates step in to defend the rule, the Supreme Court could review it. However, the DOL could also scrap the current rule and start over, while the Securities and Exchange Commission has also indicated it may step in and create its own fiduciary rule. There are also some states in the process of establishing fiduciary standards.



As a result of this uncertainty, it is anticipated that those in the industry such as recordkeepers and investment professionals will take a wait and see approach before making any changes in their current course. Plan sponsors and fiduciaries will need to stay tuned to see what develops and any impact it may have to their plans.



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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.

## Recent Articles

- [Executive Order Issued to Expand Access to Alternative Assets for 401\(k\) Investors](#)
- [DOL Promotes New On-Line Self-Correction Program](#)
- [DOL Files Amicus Brief Supporting Use of Forfeitures to Reduce Employer Contributions](#)
- [US Department of Labor Rescinds 2022 Guidance on Cryptocurrency in 401\(k\) Plans](#)

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