DOL FINALIZES THE ERISA FIDUCIARY REGULATION -- WHAT IT MEANS FOR YOUR BUSINESS

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ERISA Alert

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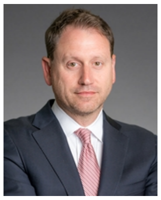
In the face of controversy and following thousands of comments from market participants and lawmakers, the Department of Labor ("DOL") has finalized sweeping changes to the definition of "fiduciary" under the Employee Retirement Income Security Act of 1974 ("ERISA") that will impact broad categories of market participants that provide investment advice. On April 6, 2016, the DOL issued Definition of the Term "Fiduciary"; Conflict of Interest Rule - Retirement Investment1 ("Fiduciary Rule") which will have the effect of greatly expanding the number of market participants that will be deemed ERISA fiduciaries and profoundly changing the provision of services to private sector employee benefit plans, primarily 401(k) plans and individual retirement accounts ("IRAs"). The DOL also issued new Prohibited Transaction Class Exemptions ("PTEs"), notably including the Best Interest Contract Exemption ("BIC Exemption") and amendments to existing PTEs (together with the Fiduciary Rule, the "Package").

The DOL has demonstrated remarkable persistence in finalizing a comprehensive change to the fiduciary definition. The DOL first proposed to change the definition of fiduciary in October 2010. In light of a heated public debate among lawmakers, the DOL withdrew its 2010 proposal and issued the reproposal in April 2015 with the strong support of the Obama White House.2 Although it has only been one year since the DOL issued the reproposal, which was facilitated by expedited review by the Office of Management and Budget ("OMB"), DOL's success in issuing the Fiduciary Rule has been nearly six years in the making. In the coming months, Congress will likely conduct significant oversight of the DOL and may pursue legislation to blunt the Fiduciary Rule or prevent the DOL from implementing or enforcing the Fiduciary Rule, though the prospects of such efforts are unclear.

Click here to read the full alert.

In order to help our clients and friends of the firm digest the new rules, we have compiled a K&L Gates guidebook. Click here to access the guidebook.

KEY CONTACTS



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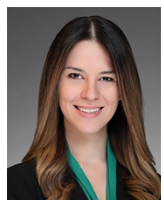

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