

DOL Confirms Plan to Delay Full Applicability Date of Exemptions Related to Fiduciary Rule

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As a follow-up to our [prior post](#), the OMB has approved the DOL's proposal to delay the full applicability date of the exemptions related to the fiduciary rule and shortly thereafter the DOL has issued a [proposed rule](#) that would further delay the applicability date of the currently-delayed requirements of the Best Interest Contract (BIC) Exemption, Principal Transactions Exemption and PTE 84-24 by 18 months, from January 1, 2018 to July 1, 2019. [Our post from earlier this year](#) describes which requirements of these exemptions are currently applicable and which requirements are currently delayed until January 1, 2018 (and now proposed to be further delayed until July 1, 2019).

The DOL stated that the proposed delay would give the DOL the time necessary to consider possible changes and alternatives to these exemptions and that it anticipates it will propose in the near future a new and more streamlined exemption based on recent innovations in the financial services industry. This suggests that there will likely be changes to the exemptions related to the rule.

In addition to requesting comments on the proposed 18-month delay, the DOL is also seeking input from the public on alternative approaches to the delay, such as a delay that would end a specified period after the DOL takes a certain action (e.g., after it concludes its re-examination of the rule) or a tiered approach where the delay would end on the later of a certain date or the end of a period following the occurrence of a specified event. Comments must be submitted by September 15.

Please note that the expanded definition of "fiduciary investment advice" under the rule that went into effect on June 9 is still applicable and the proposed delay described in this post applies only to the requirements of the exemptions related to the rule upon which persons who are considered fiduciaries under the expanded definition may rely.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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