DOL Has Taken Steps to Delay Certain Requirements of the Fiduciary Rule

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The U.S. Department of Labor (DOL) has taken new steps to delay the full applicability date of its **fiduciary rule** and related exemptions, according to recent court filings. If the DOL's intended delay comes to fruition, which is not certain, requirements that are currently delayed until January 1, 2018 will be further delayed until July 1, 2019.

Yesterday, in a case challenging the DOL's fiduciary rule, the DOL filed a **notice of administrative action** notifying the court that the DOL has filed with the Office of Management and Budget (OMB) a proposed amendment that would delay the applicability date of currently delayed requirements of the Best Interest Contract (BIC) Exemption and two other exemptions by 18 months. **Our prior blog post** describes which requirements are currently applicable and which requirements are currently delayed until January 1, 2018. The revised definition of "fiduciary investment advice" continues to be significantly expanded and persons who are considered a fiduciary under the expanded definition may rely on the BIC Exemption or one of other exemptions if they comply with the Impartial Conduct Standards (and any other applicable requirements of the exemption). The requirements that may be further delayed include the requirement to enter into contracts with certain retirement investors and to provide prescribed warranties and disclosures.

The next step for the fiduciary rule depends on whether OMB accepts the DOL's proposed delay. If the proposal is accepted, it will be published in the Federal Register. Once and if the DOL's administrative action is published, we will have a better understanding of the future of the fiduciary rule. While it is not certain, it seems likely that there will be some form of delay.

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