

DOL's New Fiduciary Rule Effective On June 9, 2017, but Not Enforced Until January 1, 2018

Article By:

Jorge M. Leon

Jason P. Faust

Kirk A. Pelikan

On May 22, 2017, Labor Secretary Acosta confirmed that the new fiduciary rule, the Best Interest Contract Exemption (BICE), and other related exemptions will take effect on June 9, 2017. In conjunction with this, the Department of Labor (DOL) has issued Field Assistance Bulletin No. 2017-02 and new FAQs that provide guidance on the new transition period, which begins on June 9, 2017, and extends through January 1, 2018.

An institution's status as a fiduciary under the new rule will begin on June 9, 2017, if it provides investment advice (including rollover advice) for direct or indirect fees or other compensation. Anyone wanting to take advantage of the BICE, the Class Exemption for Principal Transactions, or PTE 84-24 to receive variable compensation must adhere to the applicable "impartial conduct standards" throughout the new transition period without having to comply with the other related rules, such as written disclosures, contracts, etc. which take effect on January 1, 2018. The DOL expects affected parties to exercise their discretion in implementing reasonable policies and procedures to ensure compliance with these impartial conduct standards. During the new transition period, the DOL and IRS will not take action against fiduciaries that are working diligently in good faith to comply with the new guidance. These non-enforcement policies do not prohibit private lawsuits brought by, or on behalf of, plans or participants against institutions that violate the new fiduciary rule.

Although the FAQs make it clear the DOL is still studying the new fiduciary rule and that changes to it may be possible, plan sponsors and administrators should coordinate with their recordkeepers, financial institutions, and other parties that may come within the scope of the new fiduciary rule to check on the compliance status or to determine if other strategies (e.g., reduced services or increased costs) will be implemented to deal with the new fiduciary rule.

©2025 MICHAEL BEST & FRIEDRICH LLP

Source URL: <https://natlawreview.com/article/dol-s-new-fiduciary-rule-effective-june-9-2017-not-enforced-until-january-1-2018>