

eBenefits Alert: The Bumpy Road to Implementation of the Fiduciary Rule

May 24, 2017

On Monday, May 22, the U.S. Department of Labor (DOL) announced that it would not again delay the implementation of the fiduciary rule, which was adopted by the DOL under the Obama administration. The rule was initially scheduled to take effect on April 10, 2017, with a transition period after that for certain requirements. The implementation of the rule was delayed shortly before the April 10 effective date, in response to the Trump administration's directive to reduce regulations. The new effective date is June 9, 2017.

There has been speculation about whether the implementation date would be further delayed, but on Monday, U.S. Secretary of Labor Alexander Acosta announced that it would not. Accordingly, as of the end of the day on June 9, 2017, the new definition of "fiduciary" will apply to those who provide investment advice to IRAs and ERISA-governed plans. However, during a transition period ending on January 1, 2018, compliance requirements will be relaxed.

During the transition period, in order to comply with the rule's prohibited transaction exemptions, financial institutions and advisors must comply with "impartial conduct standards." To comply with these standards, financial institutions and advisors must:

- Meet a professional standard of care;
- Base advice on the interests of the customer (rather than the financial interests of the advisor);
- Charge no more than reasonable compensation; and
- Make no misleading statements about the advisor's compensation or conflicts of interest.

In an article published this week in the *Wall Street Journal*, Secretary Acosta characterized the fiduciary rule as "controversial" and stated that it "may not align with President Trump's deregulatory agenda." In response to these concerns, Acosta announced that the DOL will seek additional public input on the full rule.

Where the DOL finally lands with respect to the substance and implementation of the rule is yet unknown. Stay tuned for more details in the coming weeks and months. If you have any questions about the



implications of the fiduciary rule for your organization, please feel free to contact a member of Gray Plant Mooty's Employee Benefits & Executive Compensation Practice Group.