

April 10, 2017

DOL Issues 60-Day Delay on Fiduciary Advice Rule and Exemptions

On April 4, the US Department of Labor (DOL) pushed the applicability date of what is commonly referred to as the “fiduciary rule” or the “fiduciary advice rule” (the “Rule”) from April 10 to June 9, 2017. The full text of the extension is available via the [Federal Register](#).

The DOL also delayed by 60 days the applicability date of certain prohibited transaction class exemptions, including the “best interest contract exemption.”

Prior to the April 4 extension, the DOL published a request for comment on March 2 on the proposed 60-day extension. This request from the DOL was in response to the president’s February 3 memorandum (the “Presidential Memorandum”) directing the DOL to make certain findings with respect to the Rule, detailed in Katten’s [“DOL Proposes to Delay Fiduciary Advice Rule, Requests Comments on Delay and on Costs, Benefits of the Rule”](#) advisory.

In response to the DOL’s March 2 request for comments, the DOL stated that it received approximately 193,000 comments expressing a wide range of views on whether to grant such a delay and the duration of any delay. After reviewing the comments, the DOL concluded that some delay in the full implementation of the Rule and the class exemptions is necessary to “conduct a careful and thoughtful process pursuant to the Presidential Memorandum.” Although the DOL acknowledged that the 60-day period may not provide enough time to complete the analysis requested in the Presidential Memorandum, the DOL also highlighted its concern that a broad delay would be inappropriate and disregard the DOL’s “previous findings of ongoing injury to retirement investors.”

While the 60-day extension is welcome, it still creates a great deal of uncertainty surrounding compliance, particularly with Alexander Acosta’s confirmation as Secretary of Labor still pending. Katten will continue to monitor DOL guidance as this develops.

If you have questions about the DOL’s extension or the Rule, please contact any of the following Katten attorneys:

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