Chapman and Cutler LLP

Chapman Client Alert

March 1, 2017 Current Issues Relevant to Our Clients

DOL Proposes 60-Day Fiduciary Rule Delay and Opens New Comment Period to Examine Rule

Today the Department of Labor ("*DOL*") announced a proposed 60-day delay of the applicability date of the DOL fiduciary rule and related exemptions. The DOL has allowed a 15-day comment period providing all interested parties an opportunity to comment on the proposed delay. The comment period begins on the date the DOL proposal is published in the Federal Register, which is expected to be March 2, 2017. The DOL also announced the start of a 45-day comment period on the fiduciary rule itself. The 45-day comment period is part of the examination ordered by the presidential memorandum issued earlier this month. The memorandum instructed the DOL to perform an economic and legal analysis of the fiduciary rule's potential impact and, based on its review, to publish for notice and comment a proposed rule to rescind or revise the rule depending on the results of the analysis. A copy of the DOL's announcement including a link to the text of the proposal is available here.

Proposed Fiduciary Rule Delay

The DOL's fiduciary rule requires financial advisers to eliminate conflicts of interest when providing advice to retirement plans and IRAs and to act in the "best interest" of their retirement plan and IRA customers. While the rule became effective last year, it is not scheduled to become applicable to financial advisers until April 10 of this year. The DOL is proposing to extend the applicability date for 60 days to June 9, 2017 so that it can take additional steps prior to the rule becoming applicable to financial advisers including:

- completing the examination of the fiduciary rule ordered by the presidential memorandum;
- implementing any necessary additional extensions; and
- proposing and implementing a revocation or revision of the rule, if appropriate.

The DOL is proposing a 15-day comment period ending March 17, 2017. Among other things, the DOL specifically invites comments on whether a different delay period would best serve the interests of investors and the industry. After the comment period expires, the DOL will need to consider the comments before any delay is made effective.

Comments Requested as Part of Fiduciary Rule Examination Process Ordered by President Trump

On February 3, 2017, President Trump issued a presidential memorandum directing the DOL to conduct an economic and legal analysis of the fiduciary rule's potential impact. Our Client Alert on the presidential memorandum is available here. As part of that examination process, the DOL is starting a 45-day comment period (ending April 17, 2017) on the rule with respect to the objectives referenced in the presidential memorandum. Depending on the results of its examination, the memorandum instructed the DOL to publish for notice and comment a proposal to rescind or revise the rule. The DOL notes in its current release that after completing its examination, it may allow the final rule and related exemptions to become applicable, issue a further extension of the applicability date, propose to withdraw the rule or propose amendments to the rule and/or the exemptions.

What's Next?

Firms should consider commenting on the proposed delay and the general examination of the fiduciary rule. Comments can be submitted through the Federal eRulemaking Portal at http://www.regulations.gov or by email to EBSA.FiduciaryRuleExamination@dol.gov. Comments should be submitted with RIN 1210-AB79 as the subject.

We will continue to monitor developments on both the delay and examination. For more information about the fiduciary rule see our prior Client Alerts available here, here, here, here and here.

For More Information

To discuss any topic covered in this Client Alert, please contact a member of the Investment Management Group or visit us online at chapman.com.

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