Implementation of the DOL fiduciary duty regulations delayed

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The Department of Labor (DOL) is proposing to delay the implementation of the fiduciary regulations that were scheduled to become applicable on April 10, 2017.

On April 8, 2016, the DOL published final regulations clarifying the definition of who is a fiduciary under the Employment Retirement Income Security Act of 1974 (ERISA). In relevant part, ERISA defines a fiduciary as a person who renders "investment advice" for a fee. The new regulations expanded what constitutes investment advice.

The regulations became effective on June 7, 2016, and were scheduled to have an applicability date of April 10, 2017. However, prior to his inauguration, President Donald Trump's administration signaled that it would review the regulations. On February 3, 2017, the president directed the DOL to examine whether the final fiduciary regulations might adversely affect the ability of individuals to gain access to retirement information and financial advice, or whether the regulations could result in increased lawsuits.

As a result, the DOL is proposing a 60-day delay for implementation of the new regulations, which is intended to give the administration time to review the regulations. However, many people are speculating that this delay is intended to give the administration time to repeal the new regulations, a process that could take months to complete. Interestingly, some financial institutions have already begun to comply with the final regulations, and have indicated that they may nonetheless choose to comply going forward even if the regulations are ultimately repealed.