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In Focus: DOL Fiduciary Rule Starts to Take Effect Today

Yesterday, House passed measure to kill the rule, which increases protections for plan participants and liability for plan sponsors

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On June 9, many of the basic regulations in the Department of Labor's (DOL's) controversial fiduciary rule will take effect as part of a phased implementation that concludes on Jan. 1, 2018. Taking effect now: the rule's broadened definition of fiduciary and investment advice, which requires that investment advisors make recommendations in participants' best interest, receive compensation that's reasonable and not to provide misleading information.

The rule requires retirement plan advisors to recommend investments in plan participants' best interest regardless of fees or commissions and opens the door wider for class-action participant lawsuits against both advisors and plan sponsors if the new standard isn't met.

No More Delays for Fiduciary Rule Means It's Time to Ensure Compliance

401(k) plan sponsors, as of June 9, should ensure that any investment advice they help plan participants receive isn't "conflicted." Sponsors should understand the effect of the rule on everyday interactions with participants, and pay heed to their oversight responsibilities regarding plan service providers. (*SHRM Online* (/ResourcesAndTools/hr-topics/benefits/Pages/fiduciary-rule-Acosta-no-delay.aspx))

House Passes Bill to Kill the Fiduciary Rule

In a party-line vote, the House of Representatives approved legislation on June 8 that includes a provision to kill the DOL's fiduciary rule, although the measure's prospects in the Senate were uncertain. Republican backers of the Financial CHOICE Act see it as a way to roll back excessive financial regulations promulgated by the Obama administration. Democrats labeled it the "Wrong Choice Act," asserting it would take important investor protections off the books, including the DOL rule. (Nasdaq (http://www.nasdaq.com/article/house-passes-fiduciary-rule-killing-bill-cm800987))

Separate Measure Would Repeal, Replace Fiduciary Rule

While the Financial CHOICE Act was on the House floor, GOP Reps. Phil Roe of Tennessee and Peter Roskam of Illinois introduced their own bill that also would kill the fiduciary rule and establish a different investment advice standard that would "enhance transparency and accountability through clear, simple and relevant disclosure requirements," according to a statement. The Affordable Retirement Advice for Savers Act, its sponsors said, would protect access to affordable retirement advice by overturning the Obama Administration's "flawed" fiduciary rule while ensuring retirement advisors serve the best interests of their clients. (House Committee on Education and the Workforce (https://edworkforce.house.gov/news/documentsingle.aspx?DocumentID=401738))

Why Plan Sponsors Can't Ignore the Fiduciary Rule

Unless the new fiduciary rule is repealed or replaced, it's critical for 401(k) plan sponsors to take it seriously. They should assess their current relationships and determine the relative risks associated with them in light of the fee provisions that the fiduciary rule addresses. While plan sponsors won't be able to determine the exact nature of their potential liability, they will at least be in a position to take an inventory of their possible exposure. (FiduciaryNews.com (http://mailchi.mp/fiduciarynews/do-you-think-401k-plan-sponsors-are-ignoring-the-fiduciary-rule-heres-why-they-cant?e=e483596556))

What the New Fiduciary Rule Means for Retirement Investors

401(k) plan participants might now see more paperwork. For example, part of the regulation is an attempt to protect investors as they roll a 401(k) into an individual retirement account when leaving a job. Brokers may not be able to suggest you do that without first having you sign a "best interest contract" exemption, called a BICE. (NewsOK.com (www.shrm.orghttp://newsok.com/what-the-fiduciary-rule-means-for-retirement-investors/article/feed/994518))

[SHRM members-only toolkit: Designing and Administering Defined Contribution Retirement Plans (www.shrm.org/resourcesandtools/tools-and-samples/toolkits/pages/designingandadministeringdefinedcontributionretirementplans.aspx)*]*

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