DOL Fiduciary Rule — Retirement Account Information

November 27, 2017

The Department of Labor (DOL) “Fiduciary Rule” has experienced several substantive developments that may have caused our clients some confusion. In an effort to keep you informed, below is the most current information in regard to the rule.

The Department of Labor issued a final rule, ...‘Fiduciary’; “Conflict of Interest Rule Retirement Investment Advice,..” which was published in the Federal Register on April 8, 2016, became effective on June 7, 2016, was scheduled for an applicability date of April 10, 2017, and was subsequently delayed until June 9, 2017. The Department of Labor’s (DOL) “Fiduciary Rule”, as published, extensively indicated that an investment recommendation to investors in an ERISA Retirement Account (as defined by the DOL), as well as a recommendation to roll over to an Individual Retirement Account (IRA), would establish a Fiduciary act where an advisor or institution receives a fee or other direct or indirect compensation. Such recommendations must be provided in the investor’s best interest. In addition, if the advisor or institution receives payment for making investment recommendations, a conflict of interest may arise and may constitute a Prohibited Transaction. Such transactions may still be permissable if they fall within an exemption. There are specific tenets within the regulation that must be addressed to ensure that a Prohibited Transaction Exemption (PTE) is satisfied. Two PTEs available to a Fiduciary Advisor are the (1) Best Interest Contract Exemption (BIC Exemption), and (2) Principal Transaction Exemption, which provides a limited exemption for certain principal investments.

On April 4, 2017, the DOL deferred the applicability date of the “Fiduciary Rule” until June 9, 2017. The published version of the rule was provided in the Federal Register on April 7, 2017. The DOL subsequently provided additional guidance which delayed certain aspects of the disclosure requirements until January 1, 2018. However, the Impartial Conduct Standard or Best Interest Standard became applicable as of June 9th, 2017. This Standard imposes three basic requirements on Fiduciary Advisors for retirement investors. The Fiduciary must: (1) give advice that is in the best interest of the retirement investor (as measured by prudence and loyalty standards); (2) charge no more than reasonable compensation; and (3) make no misleading statements about investment transactions, compensation, and conflicts of interest.

In general terms, Fiduciary investment advice with respect to a plan or IRA is applicable if the a Financial Advisor makes a recommendation as to the acquiring, holding, disposing of, or exchanging of securities or other investments; makes a recommendation as to how securities or other investments should be invested after the securities or other investments are rolled over, transferred or distributed from the plan/IRA; makes a recommendation as to the management of securities or other investments, including, among other things, recommendations on investment policies or strategies, portfolio composition, selection of financial providers or individuals to provide investment advice or investment management services and selection of investment account arrangements; or makes recommendations with respect to rollovers, transfers, or distributions from a plan or IRA.

On July 6, 2017 the DOL published a request for information regarding the Fiduciary Rule and Prohibited Transaction Exemptions. On August 31, 2017 the DOL published a proposal to extend the Transition Period for the Best Interest Contract Exemption (BIC Exemption) and Principal Transaction Exemption from its currently scheduled applicability date of January 1, 2018 until July 1, 2019. The proposal would also potentially delay the applicability date of certain amendments to Prohibited Transaction Exemption (PTE) 84-24. The proposed delay by the DOL cited its ongoing examination of the issue pursuant to a President memorandum issued on February 3, 2017. The DOL proposed a comment period until September 15, 2017 to review the delay for potential benefit or harm for the following: example A) a “time-certain” delay, such as the currently proposed 18 months, B) a delay that ends at a specific time period after the occurrence of a defined event (such as the conclusion of DOL’s mandated review); or C) a tiered approach that extends the Transition Period until the earlier or later of (1) a date certain or 2) the end of a period following the occurrence of a defined event.

The DOL had previously anticipated that the proposed rule may not be fully implemented by January 1, 2018. Therefore, after a recent review, on November 27, 2017 the DOL has officially delayed the implementation of the special transition period for the Fiduciary rule’s Best Interest Contract Exemption (BICE) and the Principal Transactions Exemption and the applicability of the certain amendments to the Prohibited Transaction Exemptions 84-24 (PTEs) for 18 months from January 1, 2018 to July 1, 2019. This decision follows the review of the delay by Office of Management and Budget (OMB) at the DOL’s request. The DOL has noted that will use this 18 month period to review the many public comments it has received and to review whether the exemptions are appropriate in light of the recent review by the Securities and Exchange Commission, the state insurance regulators as well as other regulatory bodies.

Also, this assessment will be conducted in light of the current Fiduciary rule's potential to limit access to retirement information and as well as financial advice.

Signature Securities Group continues to support delivering the best possible service and advice to our clients while endeavoring to act in their best interest. We must also adhere to the June 9, 2017 requirements which have been enacted by this regulation. For SSG Broker-Dealer Retirement Accounts as well as Retirement Variable Annuity Contracts established prior to June 9, 2017 where advice is provided or for new accounts or rollover recommendations where SSG will act as a Fiduciary, the Fiduciary Standard applies. This Standard requires the Fiduciary to: (1) give advice that is in the best interest of the retirement investor (as measured by prudence and loyalty standards); (2) charge no more than reasonable compensation; and (3) make no misleading statements about investment transactions, compensation, and conflicts of interest.

In light of this changing regulation, any updates regarding your Retirement account or Retirement products and services that SSG offers will be communicated to you by your Financial Advisor. If you have any questions regarding any products and services we provide in addition to Retirement Accounts, or have any questions regarding your Signature Securities account(s) please contact your Financial Advisor or call us at 1-866-Sigline.