The U.S. Department of Labor's New Proposed Rules Defining Fiduciary Investment Advice

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On April 14, 2015, the U.S. Department of Labor (DOL) issued its highly anticipated re-proposed regulation addressing when a person providing investment advice with respect to an employee benefit plan or individual retirement account (IRA) is considered to be a fiduciary under the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code (Code). As discussed below, the new proposal (available here) offers a general definition of fiduciary investment advice that would expand the group of people who would be considered fiduciaries. The proposal contains a number of carve-outs for particular types of communications that the DOL does not consider to be fiduciary in nature. The DOL also has proposed a new set of prohibited transaction exemptions and certain amendments to existing class exemptions applicable to fiduciaries that would allow certain broker-dealers, insurance agents and others who provide investment advice to continue to engage in certain transactions and to receive common forms of compensation that would otherwise be prohibited as conflicts of interest... Continue Reading

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