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Department of Labor Takes Another Look at Investment Advice

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On June 29, 2020, the Department of Labor ("DOL") proposed a prohibited transaction exemption called *Improving Investment Advice for Workers & Retirees* ("Exemption"), which could have a substantial impact on the compliance operations of financial firms and their representatives. Possibly, the most significant development can be found in the preamble to the Exemption. The DOL states that it will now interpret more broadly its long-standing regulation defining investment advice so that more recommendations to investors, particularly rollover distribution recommendations, will result in the provision of "investment advice" for purposes of Section 3(21)(A)(ii) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") and Section 4975(e)(3)(B) of the Internal Revenue Code of 1986, as amended ("Code"). Additionally, if finalized in its current form, a fiduciary will be able to receive "conflicted compensation" in connection with providing investment advice to retail investors pursuant to the conditions of the Exemption. The Exemption will also allow a fiduciary to provide investment advice in connection with the recommendation of certain principal transactions despite the inherent conflicts involved in such recommendations.

In this article published in *The Investment Lawyer*, linked below, Principal David Kaleda analyzes this year's proposed investment advice exemption out of the DOL and the impact its passing would have on plan fiduciaries.

Click here to read the article.