

**Publications**

# DOL Issues Definition of “Fiduciary” Proposed Regulatory Package

**ATTORNEYS & PROFESSIONALS**

**Jon Breyfogle**

[jbreyfogle@groom.com](mailto:jbreyfogle@groom.com)

202-861-6641

**Jennifer Eller**

[jeller@groom.com](mailto:jeller@groom.com)

202-861-6604

**Ellen Goodwin**

[egoodwin@groom.com](mailto:egoodwin@groom.com)

202-861-6630

**David Kaleda**

[dkaleda@groom.com](mailto:dkaleda@groom.com)

202-861-0166

**Jason Lee**

[jlee@groom.com](mailto:jlee@groom.com)

202-861-6649

**David Levine**

[dlevine@groom.com](mailto:dlevine@groom.com)

202-861-5436

**Thomas Roberts**

[troberts@groom.com](mailto:troberts@groom.com)

202-861-6616

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Today the U.S. Department of Labor (DOL) issued its much-anticipated Definition of Fiduciary Conflicts of Interest regulatory proposal to replace the proposal it issued in 2010. The comprehensive regulatory package released on DOL's website includes a proposed Definition of Fiduciary regulation, a new Best Interest Contract prohibited transaction class exemption (PTE), as well as additional proposed amendments that would amend several prohibited transaction class exemptions commonly used in the financial industry for products used by ERISA plans, including PTEs 75-1, 86-128, 77-4, and 84-24. Obviously, the fact that DOL's regulatory package includes proposals to revise and even revoke several class exemptions that have been relied upon by financial institutions for decades will require an in-depth analysis of whether these exemptions remain available for existing products and services.

We are digesting the regulatory package as we write this, and will provide a more comprehensive analysis of these new proposals as soon as possible.

A few preliminary observations that we can make based on the DOL's Fact Sheet include:

- Advice to rollover a plan balance to an IRA is included as fiduciary advice.
- The concept of non-fiduciary investment education as defined by Interpretive Bulletin 96-1 has been narrowed to exclude references to specific investments.
- The so-called sellers exception from the 2010 proposal has been retained but subject to conditions and only for large plan fiduciaries with financial expertise.

You can access the regulatory package at: [www.dol.gov](http://www.dol.gov)