

**MEMO# 30855**

August 30, 2017

## **DOL Makes Available Unpublished Notice Proposing Extension of Transition Period for Exemption Conditions to July 1, 2019**

[30855]

August 30, 2017 TO: ICI Members  
Pension Committee

Pension Operations Advisory Committee SUBJECTS: Pension RE: DOL Makes Available Unpublished Notice Proposing Extension of Transition Period for Exemption Conditions to July 1, 2019

The U.S. Department of Labor has made available a currently unpublished notice extending the special transition period currently applicable to the Best Interest Contract Exemption and the Principal Transactions Class Exemption (*i.e.*, June 9, 2017 to January 1, 2018) to July 1, 2019, and delaying the applicability date of certain amendments to Prohibited Transaction Exemption 84-24 to July 1, 2019.[\[1\]](#) During the transition period, those wishing to rely on the exemptions must adhere to the “Impartial Conduct Standards” only. In general, this means that providers must give prudent advice that is in the retirement investors’ best interest, charge no more than reasonable compensation, and avoid misleading statements.

The Department states that the proposed delay is necessary to give it time to complete the reexamination of the fiduciary rulemaking directed by the Presidential Memorandum[\[2\]](#) and to consider possible changes and alternatives to the exemptions being delayed. The Department also references its “desire to coordinate with the SEC in the development of any such proposal or change.” The Department explains that it is concerned that, in the absence of the proposed delay, regulated parties may incur undue expense to comply with conditions or requirements that it ultimately determines to revise or repeal. It also expects that the delay would produce benefits that justify any associated costs.

The Department notes that it “is proposing a time-certain delay of 18 months.” It requests comments on alternative approaches suggested by commenters. For example, the Department asks if it should instead issue a delay that would end a specified period after a certain action, such as the completion of the review directed by the President’s Memorandum. The Department also requests comments on the benefits of tiered approach to a delay. As an example, the Department suggests that the Transition Period could be delayed “until the earlier or the later of (a) a date certain or (b) the end of a period

following the occurrence of a defined event.”

Comments on the proposed delay must be submitted within 15 days after the notice is published in the Federal Register.

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#### **endnotes**

[1] The notice can be found on the EBSA website at:  
<https://www.federalregister.gov/documents/2017/08/31/2017-18520/best-interest-contract-exemption-etc-extension-of-transition-period-and-delay-of-applicability-dates>.

[2] See White House memorandum to the Secretary of Labor, dated February 3, 2017 and published at 82 Fed. Reg. 9675 (February 7, 2017), *available at* <https://www.gpo.gov/fdsys/pkg/FR-2017-02-07/pdf/2017-02656.pdf> (“President’s Memorandum”).