How the New Fiduciary Rule will Impact Plan Sponsors and Advisers

Matthew Eickman, Director of ERISA Services, Lawing Financial
Karen Moore, Manager, Financial Security Plans, CenterPoint Energy, Inc.
Mary Witherow, SVP Relationship Management, Voya Financial

Agenda

1. Procedural background - pre-Trump
2. Brief overview of Regulation
3. Procedural developments - post-Trump
4. What's Next – Options for the DOL
5. Consultant Perspective – Lawing Financial
6. Plan Sponsor Perspective – CenterPoint Energy
7. Provider Perspective – Voya Financial

Procedural background – pre-Trump

1) Obama administration Focus on Two Retirement Concerns:

- Lifetime Income
- Investment Advice & Conflicts of Interest

2) 2010: DOL Proposed “Fiduciary” Regulation

- Over 300 comments received
- Two days of hearings in March of 2011
- Received 60 additional comment letters

3) 2011: DOL Announcement to withdraw regulation

Procedural background – pre-Trump

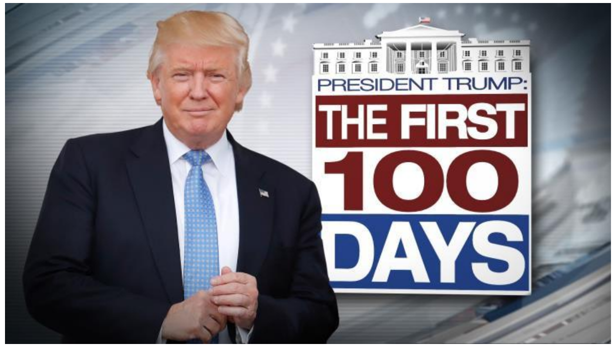
4) 2015: DOL Proposed “Conflict of Interest” Rule

- Over 3,000 comment letters received
- 300,000 submissions a part of 30 separate petitions
- Four days of hearings in August of 2015

5) April 8, 2016: DOL Final “Conflict of Interest” Rule

- Lawsuits from financial services and GOP-leaning organizations started immediately
- Biggest arguments: process not following federal Administration Procedures Act and lack of DOL jurisdiction

6) November 8, 2016: Trump elected



Brief Overview of Major Aspects of Regulation

- 1975 Fiduciary Regulation – five part test
- Context for DOL Concern
- DOL Rule expands the category of individuals and financial institutions that will be treated as fiduciaries under ERISA and the Internal Revenue Code
- Under $50M
- $50M or more
- “Direct Platforms” Provider Carve out
- Rollovers/Distributions

Procedural Developments Post-Trump

- February 3rd: Trump Executive Order
  - Directs DOL to examine the fiduciary rule
  - Directs DOL to consider potential harm to investors, disruptions in the market, and potential increase in litigation
  - No explicit delay (last minute change?)
- February 10th: DOL Submits Two Documents to OMB

  1) Proposed 180-day delay (following 15-day comment period)
  2) Another round of public comment

- DOL Rule Delay (April) some parts delayed for 60 days others until 1/1/18
- Secretary of Labor Acosta Confirmed April 27, 2017

Options for the new DOL

Secretary
Alexander Acosta

1. Let fiduciary rule move forward without changes
2. Amend the rule (i.e. tweaks)
3. Rescind the rule and propose new rule (i.e. start over)
4. Rescind the rule and go back to 1975 rules

Consultant Perspective – Lawing Financial

- Overview of Approaches to Rule
  - Advisors/Brokers
  - Recordkeepers

- Plan Sponsor considerations

- What to do now:

  - Recall the policy rational underlying the rules
  - Assess current Broker/Advisor with two questions
    - Are you a fiduciary?
    - Will you acknowledge that in writing?
  - Assess “bolt on” or “snap on” fiduciary services
  - Recognize a Duty to Monitor Service Providers
  - Assess current Recordkeeper
  - Assess Model Portfolios
  - Benchmark

Plan Sponsor Perspective – CenterPoint Energy

- In general this regulation does not drastically impact plan sponsors. We rely on our DC administrators to adhere to the regulation.
- However, with added fiduciary responsibilities falling on recordkeepers, it does impose additional monitoring responsibilities on our Benefits Committee who have ultimate fiduciary responsibility over the plans.
- We may also have to review vendor contracts with our recordkeepers to ensure fiduciary roles are captured.
- DC Plans are becoming the primary retirement tool for employees, so it is important for plan sponsors to understand what type of advice recordkeepers are providing.

Voya Preparing for the DOL Rule with Confidence

Service Descriptions	Fiduciary Activities[1] Services like this could be considered investment advice	Non-Fiduciary Activities
Recordkeeping services along with issuing and administering investment products		✓
Participant-directed transactions such as account consolidation, beneficiary changes, loans, investments, balance inquiries and address changes		✓
Seminars and general onsite education focused on making finance feel easier and giving employees more confidence		✓
Proactive communication, call center support and online education on saving, budgeting and asset allocation		✓
Education and enrollment services if your participants call Voya or meet with an onsite enrollment specialist, providing the menu of investment, rollover and distribution choices so they understand all their options		✓
When plan participants choose to roll over into an IRA, our phone-based representatives[2] will use the Best Interest Contract ("BIC") Exemption with respect to IRA investment selections, evaluating product options and costs, and making reasonable recommendations in their best interest	✓	
During face-to-face meeting with an advisor[2], Voya will use the BIC Exemption when providing an investment recommendation	✓	
Web (online advice)[3] for participants regarding savings, investments and retirement income that includes an investment recommendation	✓	
Professionally managed accounts[3] for participants regarding savings, investments and retirement income that includes an investment recommendation	✓	

1 Subject to change pending further DOL clarification **2** Subject to change pending further DOL clarification **3** Voya Financial Advisors (VFA) **4** For plans who offer in-plan advisory services through Voya Retirement Advisors, LLC (VRA), VRA acts as a limited purpose fiduciary when providing in-plan investment advice to plan participants. The current DOL guidance relied upon by VRA to provide its services is not impacted by the final rule. For those plans that offer in plan advisory services through Morningstar, Morningstar Investment Management, LLC will continue to act as the fiduciary and their services are not impacted by the final rule.

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