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Sign of Future Changes? DOL Proposes 18-Month Extension of Transition Period for Compliance With ERISA "Fiduciary Investment Advice" Rule

On August 9, the US Department of Labor (DOL) announced in a court filing that it has proposed an 18-month extension of the full implementation of the Best Interest Contract Exemption (the "BIC Exemption") under the ERISA fiduciary investment advice rule. The Proposed Extension would also apply to the Principal Transaction Exemption and Prohibited Transaction Exemption 84-24 (together with the BIC Exemption, the "Exemptions"). In April of this year, the DOL extended the effective date of the Rule until June 9 and limited the requirements of the Exemptions to only require compliance with the "impartial conduct standards" (ICS) through December 31 (the "Transition Period"). If the Proposed Extension is approved, full compliance with the Exemptions will not be required until July 1, 2019.

As described in Katten's earlier advisory, "Compliance With the ERISA Fiduciary Advice Rule for Private Investment Fund Managers and Sponsors and Managed Account Advisers: Beginning June 9, 2017," compliance with the ICS generally requires that an investment advice fiduciary (1) act in the "best interest" of plan participants and IRA owners; (2) receive no more than "reasonable compensation" (as defined under ERISA and the Internal Revenue Code); and (3) make no materially misleading statements about recommended transactions, fees, compensation and conflicts of interest.

The Proposed Extension was submitted to the Office of Management and Budget (OMB) in the form of an amendment to each of the Exemptions. While there has not yet been confirmation that the proposed amendments will be finalized as submitted to the OMB, Katten will continue to monitor these developments and provide additional information as it becomes available.

If you have questions about the Rule, please contact your regular attorney contact at Katten or any of the following attorneys.

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