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The Department of Labor's Final Investment Advice Rule

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On April 25, 2024, the Department of Labor (“DOL”) published in the Federal Register its final regulation on its “fiduciary rule” (the “Final Regulation”) clarifying when fiduciary status under the Employee Retirement Income Security Act of 1974, as amended (“ERISA”) and section 4975 of the Internal Revenue Code of 1986, as amended (the “Code”) attaches to the provision of investment advice to certain “retirement investors." At the same time, the DOL released amendments to a few existing prohibited transaction class exemptions (“PTEs”) (most notably PTE 2020-02) that provide the terms and conditions under which an investment advice fiduciary can receive direct or indirect compensation without violating ERISA.

The proposal of the fiduciary rule (the “Proposed Regulation”) was published in the Federal Register on November 3, 2023 (see our prior Alert for a description of the key provisions of the Proposed Regulation). The Final Regulation revises some provisions of the Proposed Regulation in response to comments the DOL received. The Final Regulation and amendments to the PTEs will be effective on September 23, 2024.

Please see our recent Legal Alert for a description of the key changes to in the Final Regulation and PTE 2020-02.