MARCH 1, 2017

DOL to Delay Fiduciary Rule

On March 1, 2017, the Department of Labor ("DOL") issued a proposed rule ("Proposed Rule") that would impose a 60-day delay of the applicability date of the controversial "fiduciary rule," which was set forth in final regulations published on April 8, 2016 (the "Fiduciary Rule"). The DOL issued the Proposed Rule in response to President Trump's memorandum of February 3rd and previously covered here. The Fiduciary Rule's current applicability date is April 10, 2017, however, if the DOL finalizes the Proposed Rule, the Fiduciary Rule would not apply until June 9, 2017.

The DOL is providing a 15-day comment period for the public to provide input on the decision to delay the Fiduciary Rule. The DOL has requested comments for its legal and economic analysis of the impact of the Fiduciary Rule, including: (i) how advisors are changing their target markets, (ii) how pricing for advisory services are changing, (iii) how financial advice is changing, (iv) how investor education is changing, (v) how to reduce the Fiduciary Rule's compliance burdens, and (vi) how much of the cost of the Fiduciary Rule has already been incurred and thus cannot be lessened by revisions or the replacement of the Fiduciary Rule compared to how much of the Fiduciary Rule cost has yet to be incurred.

The DOL will use the 15-day comment period to evaluate the public's comments on the above and consider whether to implement the Fiduciary Rule in its current form, modify it, or rescind it.