



**DEPARTMENT OF LABOR ISSUES NEW DEFINITION FOR
“INVESTMENT ADVICE FIDUCIARY” UNDER ERISA**

The U.S. Department of Labor’s Employee Benefits Security Administration (“EBSA”) published a final rule on April 25, 2024, aimed at applying strict fiduciary standards to additional retirement plan advisers. The rule sets out a new, broader definition for “investment advice fiduciary” under Title I and Title II of the Employee Retirement Income Security Act of 1974 (“ERISA”), which EBSA states “fills an important gap in those advice relationships where advice is not currently treated as fiduciary advice under the 1975 regulation’s approach to ERISA’s functional fiduciary definition.” The change has prompted significant opposition from major investment firms and business groups that provide services to ERISA benefit funds, who could now be subject to broader regulatory oversight and disclosure exemptions. The rule’s effective date is set for 150 days after its publication, with full compliance required by September 2025.

The final rule differs somewhat from EBSA’s initial proposal. EBSA states that the proposed rule received over 20,000 public comments, leading to revisions to the test for determining fiduciary status as well as prohibited transaction exemptions. While critics argue that existing regulations are adequate, supporters and the EBSA itself consider the new rule a necessary safeguard for retirement investors that closes regulatory gaps and aligns with the fiduciary standards outlined in ERISA.

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Dated. May 22, 2024

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