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## DOL Issues Final Conflict of Interest Rule

**Legal Update**

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By Debra J. Linder &amp; Matthew T. Boos

On April 6, 2016, the Department of Labor issued its much-anticipated conflicts of interest final rule. Like the proposed rule, the final rule broadens the definition of fiduciary and will likely require more investment advisers to comply with the fiduciary rules under the Employee Retirement Income Security Act of 1974 (ERISA), as it applies to advice provided to both qualified retirement plan participants and IRA account holders. Many types of recommendations made for a fee or other compensation will create fiduciary obligations, including recommendations relating to purchasing, holding, selling or exchanging securities or other investments; recommendations on investment strategies and portfolio composition; and recommendations regarding rollovers or distributions from a qualified retirement plan or IRA. However, communications that do not involve a recommendation, such as education, general marketing materials and general market commentary, are excluded, as well as communications with independent plan fiduciaries who meet specific requirements. In addition, the DOL has significantly modified its Best Interest Contract Exemption (BICE), which outlines the conditions that apply for advisors to continue to use current compensation and fee arrangements. Finally, the DOL has issued a Principal Transactions Exemption, which allows advisors to sell or purchase certain debt securities and other investments from their inventories to or from qualified retirement plans and IRAs, if certain conditions are met.

The final rule is generally effective one year after its publication, or April 2017. However, to provide adequate time to implement the new requirements, the conditions imposed by BICE and the Principal Transactions Exemption will be phased in from April 2017 to January 1, 2018, with full compliance required by January 1, 2018.

The Department of Labor's website contains a fact sheet summarizing the final rule and changes that were made from the proposed rules. Please contact the Investment Management Group or the Compensation Planning and Employee Benefits Group at Fredrikson & Bryon regarding specific issues related to your business.