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Investment Management

Retirement Advisers Get Ready – You May Have a Heightened Duty to Clients

Legal Update
04.21.2015

By Debra J. Linder

A recent statement by President Barack Obama warned of future changes to the fiduciary duties for financial advisers. While requesting the Department of Labor to update its fiduciary rules, President Obama stated, "It's a very simple principle: You want to give financial advice, you've got to put your client's interests first."

On April 14, 2015, the Department of Labor issued a Notice of Proposed Rule Making (NPRM) regarding a proposed regulation addressing the definition of the term "fiduciary" to address conflicts of interest when giving retirement investment advice. These proposed regulations broaden 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). For example, a fiduciary now includes any individual receiving compensation for providing advice that is individualized or specifically directed to a particular retirement plan sponsor, plan participant or IRA owner for consideration in making a retirement investment decision. There are some narrow exemptions for sales pitches and order-taking, but the DOL's intent is to require more advisers to comply with the fiduciary rules.

Please contact the Investment Management Group at Fredrikson & Bryon regarding specific issues related to your business.