

Publications

Department of Labor May Be Saying Au Revoir to BIC Exemption's Restrictions on Arbitration

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On July 3, 2017, in a brief filed before the United States Court of Appeals for the Fifth Circuit (the “Fifth Circuit”), the Department of Labor (“DOL”) and Department of Justice (“DOJ”) announced that the Government would no longer defend the restrictions on arbitration in the Best Interest Contract Exemption (“BIC Exemption”), and opined that the conditions should be vacated and severed from the exemption. The move marks a stunning shift in the DOL’s defense of its fiduciary rulemaking, which—up until now—has been vigorous and marked by a string of litigation victories. Please see the attached memo for further information.