

Publications

Regulation of Robo-Advisers by the Department of Labor

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SERVICES

As the use of robo-advisers to provide investment advice and discretionary management services has become more popular and as related technologies have developed, regulators are beginning to take note. For example, as described in the July issue of *The Investment Lawyer*, the Securities and Exchange Commission (SEC) recently issued a *Guidance Update* in which the SEC Staff provided direction to robo-advisers registered under the Investment Advisers Act of 1940, as amended (Advisers Act), regarding compliance with the Advisers Act. Robo-advisers that provide advisory services to retirement plans governed by the fiduciary provisions of the Employee Retirement Income Security Act of 1974, as amended, (ERISA), ERISA plan participants, and individual retirement accounts (IRAs) should also be aware of how the fiduciary duty and prohibited transaction provisions of ERISA and the prohibited transaction provisions of the Internal Revenue Code of 1986, as amended, (Code) apply to them and their services. Additionally, robo-advisers should be aware that other financial firms will look to the technology of robo-advisers to aid in the firms' compliance with ERISA and the Code. Please see the attached article for further information.