GROOM LAW GROUP

Publications

View from Groom: Fiduciary Advice Proposal Signals a Fundamental Shift in the DOL's Approach

ATTORNEYS & PROFESSIONALS

Jennifer Eller
jeller@groom.com
202-861-6604

PUBLISHED

06/30/2015

SERVICES

Employers & Sponsors

- Fiduciary & Plan Governance

Retirement Services

- Plan Services & Providers

On April 20, 2015, the U.S. Department of Labor (DOL or the Department) published in the Federal Register its long-awaited re-proposed regulation on the definition of fiduciary under section 3(21) of the Employee Retirement Income Security Act of 1974, as amended (ERISA) (72 PBD, 4/15/15). The package of materials proposed by the DOL is impressively comprehensive, including not only the proposed regulation itself, but also two new prohibited transaction class exemptions and amendments to several existing prohibited transaction class exemptions.

Equally impressive has been the Obama administration's carefully calibrated messaging of the proposal, including a February 23 announcement of the rule by the President himself, flanked by Senators Elizabeth Warren (D-Mass.) and Cory Booker (D-N.J.), and the press-only meeting led by Secretary of Labor Thomas Perez to distribute the public inspection version of the proposal on April 14 (36 PBD, 2/24/15). But it is not just the comprehensive nature and carefully crafted message of the proposal that is noteworthy. The DOL's fiduciary proposal represents a fundamental shift in the Department's approach to regulating the retirement services industry.

This article discusses three aspects of the proposal that illustrate this fundamental shift. Please see the attached article for further information.

RELATED MATERIALS:

View from Groom: Fiduciary Advice Proposal Signals a Fundamental Shift in the DOL's Approach