

Ch-Ch-Changes: The Conflict of Interest Rule is Delayed But Newly-Minted Fiduciaries Must Comply with Impartial Conduct Standards

The Investment Lawyer

February 2018 | Volume 25, Number 2

In this [article](#), Tess Gee reminded investment professionals that, despite delays in the effective dates of the Department of Labor's (DOL's) conflict of interest rule, the new fiduciary definition is in effect and those who qualify as fiduciaries must make good faith efforts to comply with DOL's impartial conduct standards. The conflict of interest rule has seen two extensions following the 2016 presidential election, with the latest transition period extending from January 1, 2018 to July 9, 2019, while the Fiduciary Rule became effective June 9, 2017. "Since then, any person who provides 'investment advice'—that is, a recommendation or a suggestion that the plan participant or IRA investor make a particular investment decision, such as hiring a specific investment manager or choosing investments from a selected list of securities—for a 'fee or other compensation, direct or indirect' is a fiduciary. Receiving the fee would be a prohibited transaction, unless subject to an exemption," Gee wrote. "With the delays in place on the applicability dates for the [Best Interest Conflict Exemption] and Principal Transaction Exemptions, a fiduciary understandably could have concerns," she said. "While the 18-month delay provides a further reprieve for some portions of the BIC and Principal Transaction Exemptions and portends some changes, those in the financial services industry should remain mindful of the Fiduciary Rule. Those who find themselves collared as investment advice fiduciaries under the new regulation should be taking heed of the Impartial Conduct Standards and the Department's enforcement and non-enforcement positions."