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DOL Confirms Trump-Era Investment Advice Exemption

By Bridget Hickey February 16, 2021

The **U.S.** Department of Labor (DOL)'s **Employee Benefits Security Administration** announced on Friday that a Trump-era exemption for investment advice fiduciaries will go into effect as scheduled today.

The new exemption, which was finalized in December, allows fiduciaries to offer a wide range of investment advice services, provided they comply with "impartial conduct standards." Those standards require adherence to a clients' best interest, meeting a "reasonable" compensation standard, and avoiding materially misleading statements, as reported.

The exemption fills a gap in retirement plan regulation after the Obama-era's 2016 fiduciary rule was struck down in court, as reported. The court's decision meant that a 1975 regulation establishing a five-part test for fiduciary status was reinstated.

"I think the new rule is closer to the Obama rule than it is to the original regulation," says **George Gerstein**, co-chair of fiduciary governance at **Stradley Ronon**. "It seems now that the Trump rule and the Obama rule were similar enough that the Biden administration is okay with it."

The agency will publish related guidance for retirement investors, employee benefit plans and investment advice providers in the coming days, according to the release.

"We're very glad that they did this," says **Brian Graff**, CEO of the **American Retirement Association**. "We think better to finalize something that is positive, even if [the DOL does] decide to do more… at least in the meantime, we've got some stronger rules in place."

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