

DOL Issues Additional FAQs on New Fiduciary Rule

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The DOL recently released a set of FAQs related to its new plan fiduciary definition and related exemptions (the “**Final Rule**”). Specifically, the FAQs clarify that service providers who are required to provide ERISA Section 408(b)(2) notices to retirement plan sponsors, which disclose the service provider’s fees and services, are not required to update those notices to state the service provider is now a fiduciary until the date when fiduciary status must first be disclosed under the Final Rule’s Best Interest Contract and Principal Transaction Exemptions, which is currently January 1, 2018. (Please note that on August 9, 2017, the DOL filed a motion with the court presiding over the ongoing litigation concerning the Final Rule’s validity, stating that the DOL intends to further delay the effective date of the Best Interest Contract and Principal Transaction Exemptions for an additional 18 months.) In addition, the FAQs clarify that communications regarding participation in a plan, increasing employee contributions, or methods plan sponsors could use to increase employee participation in or contributions to a plan are not fiduciary investment advice subject to the Final Rule so long as the communications do not include recommendations about specific investments. [View the FAQs.](#)