

Implementation of DOL's Final Retirement Security Fiduciary Rule Delayed

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PRACTICES Employee Benefits and Executive Compensation

Two separate Texas federal district courts recently issued opinions providing for a stay of the DOL's final retirement security fiduciary rule and all of its related prohibited transaction exemptions (the "**Final Rule**"). The opinions have the effect of temporarily pausing the Final Rule's implementation and enforcement while the lawsuits proceed. These decisions are the latest development in a more than decade-long effort by the DOL to redefine what it means to be an investment advice fiduciary.

As we previously reported [here](#), the DOL issued the Final Rule earlier this year with an initial effective date of September 23, 2024. The Final Rule expanded the definition of an investment advice fiduciary for purposes of advice to ERISA plan sponsors, ERISA plan participants, individual retirement accounts ("**IRAs**"), and IRA owners or beneficiaries, and broadly expanded the conditions required for the related prohibited transaction exemptions.

The lawsuits were brought by the Federation of Americans for Consumer Choice and the American Council of Life Insurers, which are insurance company trade associations. The plaintiffs generally argued that the Final Rule provides for an overbroad definition of "investment advice fiduciary" and is an "arbitrary and capricious" exercise of the DOL's regulatory power that is contrary to existing law. In issuing the stays, the courts ruled that the plaintiffs are likely to succeed on the merits of their claim that the Final Rule conflicts with ERISA.

The opinions in *Federation of Americans for Consumer Choice, Inc. v. United States Department of Labor* and *American Council of Life Insurers v. United States Department of Labor* are available [here](#) and [here](#). We will continue to monitor developments in this area, including whether the DOL elects to appeal these decisions.