

The DOL Finalizes the Prohibited Transaction Exemption Covering Investment Advice Fiduciaries

December 24, 2020

The DOL recently finalized Prohibited Transaction Exemption 2020-02 (PTE 2020-02) for investment advice fiduciaries. PTE 2020-02 finalizes the proposed exemption which we previously reported on [here](#). This guidance for investment advice fiduciaries completes the regulatory process that began in 2016 with the new fiduciary regulations and exemptions issued under the Obama administration, which were vacated in 2018, and the reinstatement of prior regulations and the issuance of new exemption guidance earlier this year.

While PTE 2020-02 makes some changes to the proposed exemption, it largely retains the proposed exemption's protective framework, including the Impartial Conduct Standards (under which investment advice fiduciaries must provide advice that is in the retirement investor's best interest), required disclosures, implementation of policies and procedures to comply with the standards and mitigate conflicts of interest, and retrospective compliance review. The final exemption also includes a self-correction mechanism for certain violations. In addition, PTE 2020-02 sets forth the DOL's final position on advice to roll over assets from a workforce retirement plan to an IRA and clarifies when such advice would fall within the scope of the exemption. Under PTE 2020-02, investment advice fiduciaries would be permitted to receive compensation in connection with covered advice to roll over assets from a retirement plan to an IRA and to engage in certain principal transactions, which would otherwise violate the prohibited transaction provisions of Title I of ERISA and the Internal Revenue Code.

PTE 2020-02 will be effective and available to financial institutions and investment professionals on February 16, 2021. The temporary enforcement policy announced in Field Assistance Bulletin 2018-02 will remain in place for one year following the exemption's effective date.

PTE 2020-02 is available [here](#).

The DOL's fact sheet for PTE 2020-02 is available [here](#).

The DOL's news release for PTE 2020-02 is available [here](#).