



DOL Fiduciary Rule: What Plan Sponsors Need to Know

A major component of offering a workplace retirement plan is helping employees understand the importance of saving for retirement. Often, companies hire a financial advisor or consultant to help them carry out that task because it requires specialized knowledge and expertise. With the recent adoption of [Prohibited Transaction Exemption \(PTE\) 2020-02](#), the Department of Labor (DOL) has provided investment fiduciaries with a framework for furnishing investment advice that is designed to mitigate conflicts of interest and ensure that the advice is in the best interest of plan participants. Fiduciaries and retirement plan sponsors should be aware of these important details regarding PTE 2020-02:

- It allows financial professionals a means to receive varying forms of compensation (e.g., fees and commissions) as a result of advice given regarding rollovers and how to invest assets in a plan or IRA.
- The threshold for a financial professional to be considered an investment advice fiduciary and subject to ERISA is dependent on the five-part test the DOL restored in July 2020. To meet the criteria, the person making the recommendation must:
 - Render advice to a plan, plan fiduciary, or IRA owner as to the value of securities or other property or make recommendations as to the advisability of investing in, purchasing, or selling securities or other property
 - Do so on a regular basis
 - Be pursuant to a mutual agreement, arrangement, or understanding
 - Provide advice that will serve as a “primary” basis for the investment decision
 - Ensure that the advice will be tailored to the particular needs of the plan or IRA
- PTE 2020-02 imposes strict standards to help ensure that fiduciary investment recommendations meet the best interest standard. Financial institutions and investment professionals relying on the new PTE must:
 - Acknowledge their ERISA fiduciary status in writing
 - Disclose their services and material conflicts of interest
 - Adhere to Impartial Conduct Standards
 - Document, and disclose in writing, the specific reasons why a rollover recommendation is in the retirement investor’s best interest

When Will PTE 2020-02 Start Being Enforced?

Although PTE 2020-02 went into effect on February 16, 2021, the DOL instituted a nonenforcement policy that was recently extended until January 31, 2022. Because of this, financial institutions, financial advisors, and consultants have until January 31, 2022, to be compliant with its provisions.

Retirement plan sponsors and fiduciaries who hire investment professionals to provide their employees with retirement advice can reasonably rely on their services if they are meeting the guidelines of PTE 2020-02. Plan sponsors and fiduciaries should coordinate with the financial professionals whom they have engaged to provide investment advice to the plan or plan participants to confirm they are meeting PTE 2020-02 requirements.



New Bill Would Expand Retirement Account Access

A new bill proposed in September 2021 by Representative Jim Himes (D-CT) and Senator Mark Warner (D-VA) would create portable retirement accounts for all individuals with a social security number but expand on critical retirement account access by targeting individuals who have lacked access to such accounts.

The Portable Retirement and Investment Account (PRIA) Act of 2021 introduced measures that would provide all Americans with a PRIA upon issuance of a social security number. The proposal calls for accounts to be administered by an independent board and managed by a selected financial institution, with account owners having options to invest their assets via the qualified financial institution. PRIAs would be designed to allow employers to make contributions as well. When the account owner separates from service with the employer, the PRIA would allow for the individual to have an uninterrupted ability to maintain and contribute to their account.

Although PRIAs would be available to all Americans with a social security number, the PRIA Act seeks to provide a retirement account lifeline to contract, gig, and part-time workers, as well as frequent job changers who are often ineligible for workplace retirement plans based on their employment status. According to a [news release](#) from Rep. Himes, the Act would “bring people in from the cold. Instead of seeing themselves fall further and further behind in their retirement savings, millions of Americans in nontraditional employment arrangements will have another tool in their retirement toolbox.”



We Can Help

We are ready to provide you with the ideas, guidance, and foresight to position your firm for success. If you would like to review how retirement plans are affected

by potential legislation, the DOL's fiduciary rule, or any industry happenings that may affect your firm's benefit plan offerings, we're here to assist you.

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