COMPLIANCE UPDATE

DEPARTMENT OF LABOR REQUEST

On July 6, 2017, the Department of Labor (DOL) will issue a Request for Information Regarding the Fiduciary Rule and Prohibited Transaction Exemptions (RFP).

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DEPARTMENT OF LABOR REQUEST

On July 6, 2017, the Department of Labor (DOL) will issue a Request for Information Regarding the Fiduciary Rule and Prohibited Transaction Exemptions (RFP). In the RFP, the DOL says that the retirement industry has responded to the Fiduciary Rule with innovations designed to reduce the likelihood of conflicts of interest. As a result, the DOL has determined that it would be helpful to seek public input that could form the basis of new exemptions or changes to the Fiduciary Rule and the currently existing Exemptions in response to these and other potential innovations. The RFP also seeks input on whether a further delay of the January 1, 2018, implementation date would be helpful to this process.

The RFP is in the form of questions to which the DOL is seeking answers. The first question asks:

> Whether a delay in the January 1, 2018, applicability date of the provisions in the BIC Exemption, Principal Transactions Exemption and amendments to PTE 84-24 reduce burdens on financial services providers and benefit retirement investors by allowing for more efficient implementation responsive to recent market developments? Would such a delay carry any risk? Would a delay otherwise be advantageous to advisors or investors? What cost and benefits would be associated with such a delay?

Comments are due 15 days after publication of the RFP in the Federal Register.

The balance of the RFP contains 17 additional questions. Comments are due 30 days after publication of the RFP in the Federal Register. In question 8, the DOL recognizes that insurance companies have responded to the amendments to PTE 84-24 by considering whether to develop fee-based annuity products and asks:

> How would advisors be compensated for selling fee-based annuities? Would all of the compensation come directly from the customer or would there also be payments from the insurance? What regulatory filings are necessary for such annuities. Would payment vary depending on the characteristics of the annuity? How long is it anticipated to take for an insurance company to develop and offer a fee-based annuity? How would payments be structures? Would fee-based annuities differ from commission-based annuities in any way other than the compensation structure? How would the fees charged on these products compare to the fees charged on existing annuity products? Are there any other recent developments in the design, marketing or distribution of annuities that could facilitate compliance with the Impartial Conduct Standards?

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In question 17, the DOL wonders whether PTE 84-24 should be amended to include fixed indexed annuities.

> Would it facilitate advice to expand the scope of PTE 84-24 to cover all types of annuities after the end of the transition period on January 1, 2018? To what extent would the ongoing availability of PTE 84-24 for specified annuity products, such as fixed indexed annuities, give these products a competitive advantage vis-à-vis other products covered only by the BIC Exemption, such as mutual fund shares?

It is impossible to predict how the DOL will respond to the comments it receives in response to the RFP. However, we can say that the Fiduciary Rule and the Prohibited Transaction Exemptions may not be in final form. We will just have to wait and see.

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RMC Group is an international provider of insurance, risk management, retirement and actuarial consulting services. From around the globe, our professionals help businesses and individuals anticipate, quantify, and understand the risks they face.

Since 1974, members of the RMC Group have represented the interests of their clients by helping them make sense of an increasingly complex world. We work with clients of all sizes by defining, designing, and delivering solutions to better manage risk.

RMC's team brings deep intellectual capacity, industry-specific expertise, global experience, and collaboration. We offer risk consulting and management, insurance brokering, alternative risk financing, retirement consulting and administration, and insurance program management services to businesses, government entities, organizations, and individuals.

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