

## Insights

### Presidential Memorandum Directs DOL to Reexamine Fiduciary Rule

---

February 7, 2017

By: Fenton D. Strickland

Since our February 3, 2017 Alert, explaining that the President directed the Department of Labor (DOL) to take a closer look at that Fiduciary Rule, the White House has published the Presidential Memorandum and the specific directives to the DOL.

The **Presidential Memorandum** instructs the DOL "to examine the Fiduciary Rule to determine whether it may adversely affect the ability of Americans to gain access to retirement information and financial advice." Specifically, the DOL is to update its analysis of the Fiduciary Rule, taking into consideration whether its application will adversely affect investors by (i) reducing access to retirement savings information or related financial advice; (ii) disrupting the retirement services industry; or (iii) increasing instances of litigation and prices for access to retirement services.

If the DOL's reexamination concludes that any of the above effects are likely or that the Fiduciary Rule is inconsistent with empowering investors to make their own financial decisions or facilitating their ability to save for retirement and other lifetime expenses, then the DOL is directed to rescind or revise the Rule.

Although an initial White House draft indicated a 180-day delay in implementing the Fiduciary Rule, the final Presidential Memorandum did not direct such a delay. Many commentators continue to believe that the DOL will postpone implementation. But based on the present uncertainty, companies should continue to take necessary actions to comply with the Fiduciary Rule in view of the original April 10 commencement.

Please contact an **Employee Benefits professional** at Krieg DeVault to discuss the Fiduciary Rule and its current status, and we will continue to update this Alert as the President or DOL take any other actions.