

IRA Rollovers and the Best Interest Rule

Thursday, November 2, 2023

Take-Away: The Department of Labor (DOL) recently proposed a revision to its *best interests* fiduciary rule. The proposal would amend the DOL's existing five-part test with respect to IRA rollover recommendations.

The DOL proposed revision also extends to advice that pertains to the selection of investment options for a 401(k) account. The goal of this proposed amendment is to make sure that advice given to plan sponsors about 401(k) plans are considered to be *fiduciary covered recommendations*.

The DOL proposal also covers retirement advice provided on a one-time basis, such as a recommendation to a plan participant to roll over 401(k) assets into a traditional IRA or to an annuity.

Apparently there are also some 'tweaks' to the existing *prohibited transaction* exemptions and modifications to existing *best interests* provisions that are used by independent insurance brokers [Rule 84-24.]

The new DOL proposal also reflects a 'shift' away from its prior proposals that were previously struck by federal courts, which replaces the *best interests* fiduciary rule coverage from those who provide *investment advice for a fee* [the prior standard] to one where the *best interests* fiduciary rule(s) applies to *client relationships of trust and confidence* [the new standard].

The DOL now invites public comment to its proposed rule. The DOL proposed revision to its *best interests* fiduciary rule is about 170 pages long, which is frankly why I skipped reading it. The DOL is required to come back and report what it heard from the public comments received and how its proposed *best interests* fiduciary rule was further changed (if any.)

As I learn more [while not spending my time reading a 170 pages of turgid rules] I will pass it along.