Fifth Circuit Mandate Officially Ends DOL Fiduciary Rule

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On June 21, 2018, the U.S. Court of Appeals for the Fifth Circuit issued its order, or mandate, putting into effect its earlier decision to vacate the Department of Labor's (DOL) conflict of interest regulation (the fiduciary rule), thereby officially ending the operation of the rule.

As discussed in our March 20, 2018, client alert "Fifth Circuit Vacates DOL's Fiduciary Rule," the fiduciary rule became applicable in June 2017, but the Fifth Circuit issued a decision to vacate the rule on March 15, 2018. Following that decision, the court received requests from several parties to intervene and further review the decision, although the DOL itself made no such request. The DOL had until June 13, 2018, to appeal the decision to the U.S. Supreme Court, but it declined to do so.

Although the fiduciary rule no longer exists, and the rules regarding the definition of fiduciary status and related exemptions that were in effect prior to issuance of the rule will apply going forward, the rule opened much discussion regarding fiduciary status and influenced the standards proposed by the Securities and Exchange Commission (SEC) on April 18, 2018. How the issues raised will be addressed by the DOL, the SEC and in market practice going forward remains to be seen. We will keep you updated on future developments.