

# Executive Compensation and Benefits Alert

July 31, 2024

If you have any questions regarding the matters discussed in this memorandum, please contact the following attorney or call your regular Skadden contact.

---

**Jeffrey A. Lieberman**

Counsel / New York

212.735.2734

jeffrey.lieberman@skadden.com

---

This memorandum is provided by Skadden, Arps, Slate, Meagher & Flom LLP and its affiliates for educational and informational purposes only and is not intended and should not be construed as legal advice. This memorandum is considered advertising under applicable state laws.

---

One Manhattan West  
New York, NY 10001  
212.735.3000

## Texas Courts Delay Implementation of DOL's Investment Advice Fiduciary Rule

Two federal courts in Texas have separately ordered stays delaying the effective date of the Department of Labor's (DOL) final "investment advice fiduciary rule" under Section 3(21) of the Employee Retirement Income Security Act of 1974 (ERISA). The stays are effective until further order by the courts.

The DOL released the final rule in April 2024, and it was to take effect on September 23, 2024. (See our April 26, 2024, client alert "[DOL Finalizes Investment Advice Fiduciary Rule](#).")

The July 24, 2024, order by the U.S. District Court for the Eastern District of Texas also included a stay of amendments to Prohibited Transaction Class Exemption 84-24 relating to insurance sales.

The U.S. District Court for the Northern District of Texas' July 26, 2024, stay additionally extends to amendments to Prohibited Transaction Class Exemption 2020-02, which applies to investment advisers broadly, and to related amendments to certain other class exemptions.

The orders are in response to two lawsuits filed shortly after the DOL's release aimed at overturning the final rule. In 2018, the U.S. Court of Appeals for the Fifth Circuit vacated an earlier iteration of the rule that the DOL published in 2016. Both cases assert generally, among other things, that the latest rule is effectively not significantly different from the vacated 2016 rule.

In granting its stay, the Eastern District court noted that in the judge's view, "Plaintiffs are likely to succeed on the merits of their claim because the 2024 Fiduciary Rule conflicts with ERISA in several ways ..." The Northern District court's ruling went somewhat further, stating that "Plaintiffs are virtually certain to succeed on the merits."