What You Need to Know About PTE 84-24 to Sell Qualified Annuities

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Agenda

- Overview DOL Fiduciary Rule 3.0
- Fiduciary Duties Under ERISA
- PTE 84-24
- When Compliance is Required
- Best Practices

Overview of DOL Fiduciary Rule 3.0

- On 02/16/2021, DOL Fiduciary Rule 3.0 went into effect
- Expanded the definition of fiduciary and Impartial Conduct Standards and amended prohibited transaction exemptions

-A person who provides investment advice and receives a fee or other compensation for that advice is an investment advice fiduciary

- Non-enforcement grace period expired on 02/01/2022
- Most significant change to retirement investment services since the enactment of Employee Retirement Income Security Act (ERISA)

-For decades, a one-time rollover recommendation to purchase an annuity to a plan participant or IRA owner was generally understood to not be considered part of definition of fiduciary investment advice

Fiduciary Duties Under ERISA

- DOL's Fiduciary Rule prevents parties providing fiduciary investment advice from collecting compensation or other payments for such advice unless they comply with an exemption to the rule called Prohibited Transaction Exemption (PTE)
- A person is considered to be giving fiduciary investment advice if they:

-Make recommendations as to the advisability of investing in, purchasing, or selling securities or other property

-On a regular basis

-Pursuant to a mutual agreement, arrangement or understanding, written or otherwise with the plan owner, plan fiduciary or IRA owner

-The advice will serve as a primary basis for the investment decision with respect to the plan or IRA assets

-The advice will be individualized based on the particular needs of the plan or IRA

- **All five parts** of the test must be satisfied for a financial professional to be a investment advice fiduciary

PTE 84-24

- Provides regulatory relief to insurance agents and brokers who are considered investment advice fiduciaries and receive payments from third party or sales commission in connection to transactions involving an ERISA plan or IRA
- Certain conditions need to be met for the exemption to apply.

  -The transactions must be effected by the fiduciary in the ordinary course of business

  -The terms of the transaction must be as favorable to the plan or IRA as an arm's length transaction with an unrelated party

  -Must receive no more than reasonable compensation
- Certain disclosures must be made for the exemption to apply

  -The nature of any affiliation or relationship with the insurance company whose annuity is being sold along with any limitations on the products being recommended

  -The sales commission expressed as percentage of gross annual premium and for each of the succeeding renewal years

  -A description of any charges, fees, discounts, penalties, or adjustments under the contract
- The PTE 84-24 disclosure must be written to be understood by a participant or owner who has no special expertise in insurance or investment matters.

When Compliance is Required

- The DOL's new fiduciary rule applies to any business written with qualified funds

  -a qualified plan rollover to an IRA

  -a trustee-to-trustee qualified plan transfer

  -purchase of a life insurance policy funded with RMDs

- PTE compliance has been required as of 02/01/2022

Best Practices

- Gather the relevant information necessary to analyze the options available to the client
- Analyze the information and other relevant factors in order to make a recommendation that is in the best interest of the client
- Document the reasons why the recommendation is in the best interest of the client
- To receive permissible compensation for the recommendation, comply with the conditions and requirements of PTE 84-24
- Prior to finalizing the transaction, have the client execute the disclosure form, acknowledging in written receipt of the disclosures and approving the purchase of the contract
- Maintain appropriate record-keeping protocols

Any Questions?

Thank you!

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