

## U.S. Department of Labor finalizes rules redefining a fiduciary for purposes of retirement investment advice

Last week, the U.S. Department of Labor (DOL) released publicly Final Rules redefining who is considered a “fiduciary” for purposes of retirement investment advice (Final Rules or Rules) and expanding substantially the universe of fiduciaries and the standard of care applicable to them. Specifically, fiduciaries must guard the “best interest” of the customer, not merely assess the suitability of investment options. This will have a profound impact on how retirement investment advice is delivered in the United States.

All entities that provide investment advice to an ERISA-based plan, plan sponsor, plan fiduciary, plan participant or beneficiary, or to an IRA or IRA owner, will be affected. These advisers must either avoid receiving payments that create conflicts of interest or comply with the exemptions contained in the Final Rules, including:

- Acknowledge the fiduciary status of the firm and its individual advisers;
- Adhere to the basic standards of impartial conduct, including giving prudent advice that is in the **best interest of the customer**, avoiding misleading statements, and receiving no more than reasonable compensation;
- Adopt policies and procedures designed to mitigate conflicts of interest; and
- Disclose conflicts of interest and the cost of advice.

Firms must now identify their strategic response to this regulatory change and must quickly craft an action plan for implementation. Compliance with the Final Rules will require the management and coordination of significant changes on multiple levels across an enterprise and across multiple time frames. To implement a successful strategic response, KPMG believes it will be necessary to consider and address changes in at least the following areas:

- Program Management
- Product Portfolio Enhancement
- Compensation and Contracts
- Digitized Tool Upgrades
- Marketing
- Distribution
- Brand Identification
- Business Process and Technology
- Regulatory Compliance
- Human Resources/Legal

KPMG is actively working to assist our clients in developing and implementing their strategic response to the DOL’s voluminous and complex final fiduciary rules. We would be happy to discuss the 1,023-page Final Rules in more detail. The professionals listed below will be pleased to help you develop and implement a compliance strategy appropriate to your firm’s priorities.

**For additional information, please contact:****Howard Margolin  
Partner, Advisory**

DoL Fiduciary Rule Lead  
Financial Services Operations Risk  
**T:** 1-212-954-7863  
**E:** [hmargloin@kpmg.com](mailto:hmargloin@kpmg.com)

**Stacey Guardino  
Partner, Advisory**

Enterprise and Consumer Compliance  
Financial Services Regulatory Risk  
**T:** 1-212-954-4950  
**E:** [sguardino@kpmg.com](mailto:sguardino@kpmg.com)

**Larry Godin  
Principal, Advisory**

Capital Markets and Investment Management  
Financial Services Regulatory Risk  
**T:** 1-212-954-1939  
**E:** [lgodin@kpmg.com](mailto:lgodin@kpmg.com)

**Amy Matsuo  
Principal and National Lead**  
Financial Services Regulatory Risk  
**T:** 1-919-380-1509  
**E:** [amatsuo@kpmg.com](mailto:amatsuo@kpmg.com)

**Tracy Whille  
Principal, Advisory**  
Capital Markets and Investment Management  
Financial Services Regulatory Risk  
**T:** 1-212-954-2691  
**E:** [twhille@kpmg.com](mailto:twhille@kpmg.com)

**Barbara C. Matthews  
Managing Director, Advisory**  
Americas Financial Services Regulatory Center of Excellence  
Financial Services Regulatory Risk  
**T:** 1-202-533-3443  
**E:** [bcmatthews@kpmg.com](mailto:bcmatthews@kpmg.com)

The Americas Financial Services Regulatory CoE is based in Washington, DC and comprised of key industry practitioners and regulatory advisers from across KPMG's global network.



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