

DOL Fiduciary Rule Frequently Asked Questions

Q: To what types of transactions does the DOL Fiduciary Rule apply?

A: On December 18, 2020, the U.S. Department of Labor (“DOL”) adopted a new rule regarding fiduciary investment advice under Employee Retirement Income Security Act of 1974 (“ERISA”), in which it shifted its interpretation of when an investment advice provider is a fiduciary. In doing so, the DOL disavowed its previous interpretation and took the new position that advice regarding the transfer or rollover of retirement assets covered by ERISA to an individual retirement account (“IRA”) or annuity, would constitute fiduciary investment advice under ERISA if other requirements are satisfied (“Fiduciary Rule”).

Q: When will Fiduciary Rule take effect?

A: The new rule took effect on February 16, 2021. A non-enforcement policy has been in place since then, but it expires on January 31, 2022. This means that beginning February 1, 2022 agents could be prohibited from receiving compensation for certain transactions unless they comply with protective conditions in a prohibited transaction exemption (“PTE”).

Q: Does the DOL Fiduciary Rule apply to me/this transaction?

A: While we cannot advise agents on whether or not the Fiduciary Rule applies to an individual transaction, agents should assume that it may be applicable on any transaction that involves advice being given to an ERISA plan sponsor, an ERISA plan participant, or an IRA owner. For such transaction the best practice would be to complete a PTE 84-24 Disclosure and Acknowledgment Form, to provide a copy to your client, and to retain a copy for your records.

Q: Why would I need to complete the PTE 84-24 Disclosure and Acknowledgment Form:

A: The PTE 84-24 Disclosure and Acknowledgment Form should be completed for any transaction where you intend to receive commission for a sale involving advice being given to an ERISA plan sponsor, an ERISA plan participant, or an IRA owner; or where there will be a transfer or rollover of retirement assets covered by ERISA to an individual retirement account (“IRA”) or annuity.

Q: What disclosures and acknowledgements are required for an effective PTE 84-24 disclosure?

A: PTE 84-24 requires the disclosure and acknowledgment of certain specific information at the time of sale, such as:

- The nature of your relationship to the insurance provider;
- The sales commission paid to you by the insurance provider in connection with the purchase of an IRA contract;
- A description of any charges, fees, discounts, penalties, or adjustments under the IRA contract; and
- Information about conflicts of interest.

Q: Is the PTE 84-24 Disclosure and Acknowledgment Form an “In Good Order” requirement for applications involving rollovers or transfers from qualified plans?

A: Not at this time. However, we do encourage agents to submit the PTE 84-24 Disclosure and Acknowledgment Form with the application packet where applicable. By doing so you can ensure that a copy will be retained in our records as well as yours.

Q: What should I do with the completed PTE 84-24 Disclosure and Acknowledgment Form?

A: You should provide a copy of the signed PTE 84-24 Disclosure and Acknowledgment Form to your client at the time of sale, as well as maintain a copy for your personal records. In addition, although not a requirement of an application being “In Good Order” at this time, we encourage agents to submit the PTE 84-24 Disclosure and Acknowledgment Form with the application packet for each applicable transaction, which we will retain a copy of in our records.