June 22, 2017

To: The ASA Group Independent Agents

DOL Fiduciary Rule Summary

On April 6, 2016, the U.S. Department of Labor (DOL) issued its final rule expanding the "investment advice fiduciary" definition under the Employee Retirement Income Security Act of 1974 (ERISA) and modified the complex of prohibited transaction exemptions for investment activities within its expanded definition. This final rule is commonly known as the "DOL Fiduciary Rule." The potential impact of the Rule on The ASA Group independent agents will be influenced by the type of investor you serve, product(s) you introduce, securities registration and whether or not you are affiliated with a qualifying Financial Institution (e.g., insurance company, broker/dealer, registered investment adviser, or bank) that will warrant your compliance with a DOL fiduciary standard.

In summary, the DOL Fiduciary Rule:

- Creates a significant expansion of qualifying situations in which anyone who provides investment advice for a fee, such as an insurance agent or a registered representative of a broker-dealer will be treated as a fiduciary to ERISA plans and individual retirement accounts (IRAs);
- Introduces new exemptions, and modifies or revokes a number of existing exemptions, which are necessary in order to receive variable compensation like commissions, addressing those activities; and
- Retains the ERISA distinction between non-fiduciary "investment education" and fiduciary "investment advice."

As described below, certain provisions of the rule afford you a phased compliance requirement:

Actual Rule Effective Date: <u>June 7, 2016. Note: at the date of this publication, the Rule is final and no changes have been made to the DOL Fiduciary Rule as adopted other than the applicability date.</u>

Applicability Date: Generally, June 9, 2017 (delayed from the original April 10, 2017 Applicability Date), with a further transition period for many BICE provisions and PTE 84-24 <u>(other than the impartial conduct standards, now called a transitional PTE 84-24)</u> until January 1, 2018, and a conditional grandfather rule for certain arrangements existing before June 9, 2017.

Under the new Rule, the DOL clearly restructures your legal obligations and liability with respect to the how you interact with retirement investors; this includes your existing annuity policyholders and prospective clients. If you intend to advise retirement investors on the benefits of annuity products you will be deemed a fiduciary and must use a prohibited transaction exemption (PTE).

What does this mean to you as an Independent Agent of The ASA Group?

The ASA Group will remain a primary resource to you and assist you with adapting to full compliance with the Rule and the relevant PTEs, both during the transition period and after.

Although there are two primary PTEs that agents are likely to rely on when recommending investment products and services and insurance products to qualified accounts, we will focus on PTE 84-24 for our licensed only insurance agents.

How Will You Operate as an Independent Agent of The ASA Group under the Fiduciary Rule?

To better understand the timing impact for the application of the Rule and PTE 84-24 it's easier to divide the requirements into two periods. The first is the transition period, which runs from June 9, 2017 until December 31, 2017 and has minimum requirements for the PTEs. The second period starts on January 1, 2018 and mandates full compliance with all the requirements of the PTEs.

During the transition period, PTE 84-24 requires that an independent agent adhere to the Impartial Conduct Standards, which are described in the bullets below:

- A Best Interest Standard of Care - The best Interest standard of care is a combination of ERISA's prudent man rule and duty of loyalty. Any advice provided must be, at the time of the recommendation, in the best interest of the retirement investor. The agent must take into account the investment objectives, risk tolerance, financial circumstances and needs of the retirement investor, without regard to the financial or other interests of the adviser, the financial institution or any affiliate or related entity, or other party.
- Reasonable Compensation - "reasonable compensation" is a market-based standard as determined under ERISA and the Internal Revenue Code (i.e., what would a transparent and competitive market pay for the services of the independent agent?).
- No Misleading Statements - the independent agent cannot make materially misleading statements about the investments, fees, material conflicts of interest or other matters that would be material to the investment decision.

In addition to the Impartial Conduct Standards, an agent relying on PTE 84-24 during the transition period must also provide a disclosure to its retirement investor clients. This disclosure is not required for agents relying on the BICE through a Financial Institution. Below is a chart comparing the BICE to PTE 84-24 with PTE 84-24 being our focus.

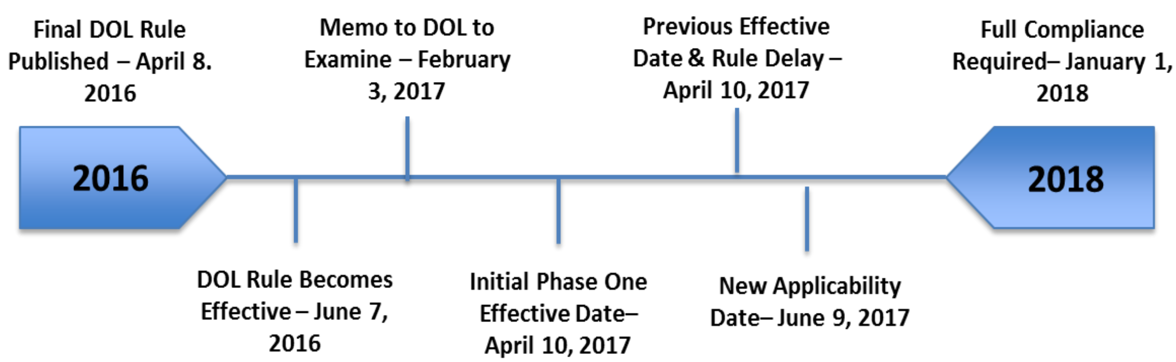
		BIC Exemption	PTE 84-24
Impartial Conduct Standards	**Act in Best Interest**	At the time a Recommendation, Adviser and FI act prudently and without regard to the financial or other interests of the FI, financial adviser, or any Affiliate, Related Entity, or other party.	At the time of the transaction, the fiduciary (insurance agent, broker, or insurance company) acts prudently and without regard to the financial or other interests of the fiduciary, any affiliate or other party.
	No materially misleading statements	Statements about recommended transactions, fees and compensation, Material Conflicts of Interest and any other matters relevant to the investment decisions will not be misleading at the time they are made.	Statements about recommended investments, fees, Material Conflicts of Interest and any other matters relevant to the investment decisions are not misleading at the time they are made. Failure to disclose a Material Conflict of Interest related to an investment decision is considered a misleading statement.
	No more than reasonable compensation	Recommended transactions will not cause compensation for our services that is in excess of reasonable compensation.	Not included in ICS but part of "old 84-24" and still required during Transition Period.
Written Fiduciary Acknowledgement		Required (January 1, 2018).	Not required but agent cannot make misleading statement disclaiming fiduciary status.
Disclosures		Contract, transaction and website (FI responsible) (January 1, 2018).	84-24 disclosure (agent responsible) (June 9, 2017).

Summary of Important Dates

As described above, the "official" effective date of the revised definition of "fiduciary investment advice" and the date the exemptions are considered "issued," is June 7, 2016. As of June 9, 2017, the revised definition of "fiduciary investment advice" and the limited requirements of the BICE and PTE 84-24 will apply.

- A Transition Period runs from the June 9, 2017, applicability date to January 1, 2018.
- Beginning June 9, 2017 through December 31, 2017 independent agents, without a Financial Institution, can use the transitional PTE 84-24, subject to the added impartial conduct standards to continue advising on the benefits of annuities. After the transition period ends on December 31, 2017 the full rule goes into effect on January 1, 2018. As of that time, full compliance with the exemptions will be required.

Abridged DOL Fiduciary Timeline



The ASA Group recognizes the Rule, its requirements and the associated timing for compliance may be daunting; nevertheless our agency has the expertise and resources to serve you through the transition period and assist you with adapting to full compliance with the Rule after the transition period. Please contact David Smith at The ASA Group for a personal consultation and learn more about how we can support you.

Frequently Asked Questions

Do you know how insurance & annuity carriers intend to treat qualified Fixed Rate or Fixed Index Annuity sales from independent agents not affiliated with a Financial Institution?

Agents will need to comply with PTE 84-24. Since the insurance company will typically not be a fiduciary, they will not be responsible for ensuring that an independent agent is complying with the PTE 84-24 exemption.

Under the impartial conduct directive, who has responsibility to ensure reasonable compensation for non-registered independent agents?

Compliance with PTE 84-24 is left up to the fiduciary, which most often will be the agent. Neither The ASA Group nor its insurance company partners will be a fiduciary in this instance and, therefore, has no obligation to comply with the exemption. That being said, both The ASA Group and its insurance company partners will be resources for the agent to comply with the Impartial Conduct Standards and the disclosure requirements.

The PTE 84-24 disclosure will include (1) a description of the relationship between the agent and the insurance company; (2) the insurance commissions the fiduciary receives (in the form of a percentage); (3) a statement of charges, fees, discounts, penalties or adjustments incurred with the annuity contract; (4) a list of the fiduciary's material conflicts of interest (ex. commission payments, grid payouts, trips, sales incentives, marketing support, receipt of variable compensation for selling one product over another); and (5) acknowledgement of the transaction by the retirement client.

The ASA Group offers a form PTE 84-24 disclosure form that will be available to our agents recommending annuity products to retirement investor clients.

What obligations, if any, will The ASA Group have with their non-registered independent agents selling Fixed Rate or Fixed Index Annuities in qualified accounts?

The ASA Group, as long as it is not a fiduciary, does not legally have an "obligation(s)" under PTE 84-24. However, The ASA Group will provide support to its agents to comply with the terms of PTE 84-24 and, specifically, the disclosures.

For Additional Information or Questions Surrounding the Fiduciary Ruling Contact:

David Smith
Vice President of Annuities
The ASA Group
11807 Hinson Road, Little Rock, AR 72212

Call: (501) 224-7739 ext. 205
Email: dsmith@theasagroup.com