

**Important Information to EquiTrust Agents**  
**Department of Labor Fiduciary Conflict of Interest Rule**  
**5/30/17**

### **Background**

Significant regulatory changes on the horizon for the industry may affect your business. On April 8, 2016, the Department of Labor (DOL) published Fiduciary and Conflict of Interest Rules (“the Rules”). Absent any additional delay, effective June 9, 2017, the Rules expand the definition of “fiduciary” under federal law to include a broad range of financial advisers who provide recommendations<sup>1</sup> with respect to assets of a plan or IRA. This makes individuals who provide that advice subject to the applicable fiduciary obligations.

Insurance agents selling annuity contracts to retirement investors will generally be treated as investment-advice fiduciaries, subject to both prohibited transaction rules that prohibit you from receiving transaction-based compensation, such as commissions, unless you satisfy the conditions of a prohibited transaction exemption (“PTE”).

Two exemptions available for insurance and annuity transactions under the Rules – the Best Interest Contract Exemption (“BICE”) and Prohibited Transaction Exemption 84-24 (“PTE 84-24”) – provide relief from the prohibited-transaction provisions. Under BICE, advice recommendations must be overseen by a “financial institution<sup>2</sup>” that ensures that agents adhere to the “Impartial Conduct Standards.” Under PTE 84-24 formal supervision by a “financial institution” is not required, but agents must still adhere to the Impartial Conduct Standards.

### **Implementation Dates**

On April 10, 2017, the DOL delayed the applicability date of the Rules until June 9, 2017. Certain aspects of PTE 84-24 and BICE have been delayed until January 1, 2018. These delays affect annuity sales as follows:

Now through June 8, 2017

- Business as usual.

June 9 through December 31, 2017:

- The expanded fiduciary definition is in effect and applicable.
- Agents acting as fiduciaries must satisfy BICE or PTE 84-24 to receive a commission related to the sale of qualified annuity or life insurance funded by a distribution from a plan or IRA.
- PTE 84-24 and BICE are available for transactions in all types of insurance and annuity contracts.
- Documentation of either PTE 84-24 or BICE exemptions will be required with applicable applications. These forms will be available before June 9.

Beginning January 1, 2018

- Additional conditions of PTE 84-24 and BICE become effective.
- PTE 84-24 is only available for fixed-rate (non-indexed) annuities. Index annuities must be sold through the BICE.

---

<sup>1</sup> “For purposes of [the Rules], “recommendation” means a communication that, based on its content, context, and presentation, would reasonably be viewed as a suggestion that the advice recipient engage in or refrain from taking a particular course of action.” Sec. 2510.3–21(b)(i) (April 8, 2016).

<sup>2</sup> A financial institution may be a registered investment adviser (either state or federal), bank, an insurance company, or a broker-dealer. At this time an Insurance Marketing Organization cannot act as a financial institution.

## **Impartial Conduct Standards**

The cornerstone for both PTE 84-24 and BICE is the Impartial Conduct Standards which are generally comprised of three components:

### **Best Interest Standards**

Defined as:

Care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, based on the investment objectives, risk tolerance, financial circumstances, and needs of the Retirement Investor, without regard to the financial or other interests of the Adviser, Financial Institution or any Affiliate, Related Entity, or other Party.

### **Compensation**

Compensation must be reasonable, and includes non-monetary compensation such as trips, gifts, etc.

### **Misleading Statements**

Requires agents to avoid making statements that are materially misleading, including failure to disclose a Material Conflict of Interest<sup>3</sup>, at least as it applies to PTE 84-24. Therefore, you will need to examine your business practices to catalog any Material Conflict of Interests to ensure they are properly disclosed to your clients.

## **Summary**

To ensure you are meeting your new obligations and demonstrate that you are meeting your fiduciary duties, you must develop certain processes and systems. Compliance with the Rules is your responsibility. EquiTrust does not provide investment advice under the Rules, and will not serve as the financial institution under the BICE, perform the required supervisory oversight responsibility to support the BICE, nor provide any similar functions for you with respect to your reliance on PTE 84-24. This material is for informational purposes only and not for purpose of providing legal advice. Should you have any questions regarding compliance with the Rules and its effects on your business, please contact your IMO or Financial Institution.

---

<sup>3</sup> A "Material Conflict of Interest" exists when a person has a financial interest that a reasonable person would conclude could affect the exercise of its best judgement as a fiduciary in rendering advice to a Plan or IRA.