



DOL Final Fiduciary Rule

Frequently Asked Questions (FAQs)

On October 27, 2016 the U.S. Department of Labor issued the first 34 FAQs with a promise to issue several additional FAQs. Attached is a link to the initial FAQs: <https://www.dol.gov/sites/default/files/ebsa/about-ebsa/our-activities/resource-center/faqs/coi-rules-and-exemptions-part-1.pdf> Listed below is a Table of Contents for the initial FAQs:

Conflict of Interest Exemptions FAQs

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Here are two examples of the Q & As:

Q4. Is compliance with the BIC Exemption required as a condition of executing a transaction, such as a rollover, at the direction of a client in the absence of an investment recommendation?

A4. No. In the absence of an investment recommendation, the rule does not treat individuals or firms as investment advice fiduciaries merely because they execute transactions at the customer's direction. Similarly, even if a person recommends a particular investment, the person is not a fiduciary unless the person receives compensation, direct or indirect, as a result of the advice.

If, however, the firm or adviser does make a recommendation concerning a rollover or investment transaction and receives compensation in connection with or as a result of that recommendation, it would be a fiduciary and would need to rely on (*a DOL*) exemption. (Emphasis added.)

Q32. Does 84-24 cover rollovers into an annuity?

A32. Yes. Section I(b)(1) (*of PTE 84-24*) provides that the exemption permits "[t]he receipt, directly or indirectly, by an insurance agent or broker or a pension consultant of an Insurance Commission and related employee benefits, from an Insurance Company in connection with the purchase, with assets of a Plan or Individual Retirement Account (IRA), *including through a rollover or distribution*, of an insurance contract or Fixed Rate Annuity Contract." (Emphasis added.) Likewise, as amended, Section I(b)(4) of the exemption permits "[t]he purchase, with assets of a Plan or IRA, *including through a rollover or distribution*, of a Fixed Rate Annuity Contract or insurance contract from an Insurance Company, and the receipt of compensation or other consideration by the insurance company." (Emphasis added.)

We hope this is helpful.

Please let us know if we can be of assistance.