



BENEFIT NEWS BRIEFS

DOL Publishes Final Investment Advice Regulations Implementation Delayed by White House

The Department of Labor (DOL) published final regulations relating to the provision of investment advice by a fiduciary adviser to participants and beneficiaries in participant-directed individual account plans, such as 401(k) plans, and beneficiaries of individual retirement accounts (and certain similar plans). The regulations were published in the *Federal Register* (74 FR 3822) on January 21, 2009 and are available at <http://edocket.access.gpo.gov/2009/pdf/E9-710.pdf> or by "[clicking here](#)."

The regulations were to be effective March 23, 2009; **however**, in a tradition dating back to Ronald Reagan in 1981, the incoming administration has issued a *Memorandum of the Heads of Executive Department and Agencies (Memorandum)* which, among other things, asks agencies to "consider extending for 60 days the effective date of regulations that have been published in the *Federal Register* but have not yet taken effect..."

The *Memorandum* also requests that no proposed or final regulations be sent to the Office of the Federal Register until they have been reviewed by the new administration's appointees, as well as withdrawing all proposed and final regulations that have not yet been published in the *Federal Register*.

The *Memorandum* is available by "[clicking here](#)" or available for download at: http://www.americanbenefitscouncil.org/documents/emanuel_memo012109.pdf.

Several published news reports indicate that the final regulation may never see the light of day due to opposition from House Education and Labor Committee Chairman George Miller (D-California), who apparently has vowed to block the regulation's implementation.

As a result, until the muddied waters clear, this publication merely reports that the “final” regulation is published and provides links to access the document. Once it becomes clear that the regulation will take effect, we will publish an analysis of the regulation.

In the interim, Fund professionals may wish to review the regulation so if it becomes effective they will be prepared. The text of the regulation itself begins on page 3846. As usual, the explanatory information found in the *Preamble*, pages 3822 to 3838, is helpful in understanding the regulation as well as pointing out any changes from the proposed regulation.

The Proposed Regulation was discussed in [Benefit News Briefs 2008-48](#).

* * *