

## Your PTE 2020-02 Requirements

After months of anticipation and a few extensions to the date of compliance, the requirements related to the DOL's new Prohibited Transaction Exemption ("PTE") 2020-02 are upon us and the investment advice fiduciaries it governs. Specifically, those investment advice fiduciaries who advise an ERISA Plan or individual retirement accounts ("IRAs") and receive variable compensation will be able to continue doing so as long as the conditions of PTE 2020-02 are met. With the December 20, 2021, temporary enforcement policy now passed, a "good faith" Impartial Conduct Standard compliance date of February 1, 2022, and an enforcement date for documentation and disclosure requirements fast approaching on June 30, 2022, the team at Jacko Law Group, PC ("JLG") is helping our clients to strategize and implement their path of ongoing compliance.

### What You Need to Establish

Firms need to ensure that they take four (4) essential steps to help meet their fiduciary duties.

1. **Develop adequate policies and procedures ("P&Ps"), as well as disclosures.** When reviewing your P&Ps, firms must focus on ERISA accounts and recommendations to remove assets from employer-sponsored plans, as well as IRA rollovers. Firms should ensure that their P&Ps are adequately addressing all applicable requirements in PTE 2020-02, including adhering to impartial conduct standards, determining and documenting those recommendations to roll over retirement assets are in the investor's best interest, providing required disclosures to investors and clients, and performing annual reviews, which includes written certification by a senior manager.
2. **Establish a method and performance of an analysis.** It is integral for firms to clearly determine their method of how they are assessing that each rollover recommendation is in the best interest of the investor relative to, among other things, costs, fees, investment choices, and benefits.
3. **Document your evaluation and recommendation.** Firms must provide each client with an evaluation of how the recommendation was determined based on the various factors considered for the analysis. Keeping a record of this analysis will provide evidence to a regulator that the conflict of interest was mitigated, and that the adviser acted in the best interest of the client.
4. **Test and train your internal teams.** With P&Ps developed, it is imperative that Firms regularly test and train their employees' understanding of their regulatory responsibilities and requirements. As a best practice, signed attestations are ideal for documenting your business' books and records.

## What's Next and Approaching Deadlines

While some firms have taken a few steps to address what is needed to satisfy the exemption, it is imperative that firms take extra care to ensure this is acknowledged and detailed within adequate P&Ps, referenced in advisory contracts, and trained upon with advisors.

- **Impartial Conduct Standards - Compliance Date: January 31, 2022**  
The DOL has extended the non-enforcement date for the investment advice fiduciaries who are diligently working to act in good faith to comply with the impartial conduct standards and implementation of P&Ps. As a reminder, to meet the exemption the adviser must:
  - Provides advice consistent with the standards of care, prudence, and loyalty;
  - Only charge reasonable fees that align with their Best Execution obligations; and
  - Make no false or misleading statements regarding their recommendations, transactions, or other relevant issues.
- **Documentation and Disclosure Compliance Deadline: June 30, 2022**  
Firms will need to ensure that specific documentation and disclosure requirements for rollovers are fully established and rolled out by June 30th. Operationally, are you ready?

## How We Can Help

JLG can assist your team in meeting your regulatory requirements of PTE 2020-02.

We are currently working with clients to navigate this change and understand its intricacies. We can provide sample disclosure worksheets, design proper protocols for analysis and evaluation, and assess documentation vulnerabilities. To get started, contact us today at (619) 298-2880 or [info@jackolq.com](mailto:info@jackolq.com).