



Investment advice PTE takes effect as DOL hints at more changes

*By Brian J. Kearney and Margaret Berger
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The Department of Labor (DOL) has [announced](#) that its new prohibited transaction exemption ([PTE 2020-02](#)) for fiduciaries providing investment advice is effective as scheduled on Feb. 16, 2021. The announcement quells uncertainty about whether President Biden’s Jan. 20 [freeze](#) on pending regulatory actions would delay the PTE from taking effect.

DOL expects to soon issue related PTE guidance for retirement investors, employee benefit plans and investment advisors. The agency will continue stakeholder outreach to determine how DOL might improve the new PTE, the regulatory definition of investment advice fiduciary and related exemptions.

In 2016, DOL amended the regulatory definition of investment advice fiduciary and issued a new PTE known as the “best interest contract” exemption, but a federal court vacated those actions in 2018. The agency’s temporary enforcement policy announced in [Field Assistance Bulletin 2018-02](#) will remain in effect until Dec. 20, 2021. Under that policy, DOL won’t pursue prohibited transaction claims against investment advice fiduciaries who operate in good-faith compliance with the standards of the vacated 2016 regulation and PTE.

Related resources

Non-Mercer resources

- [News release](#) (DOL, Feb. 12, 2021)
- [Regulatory freeze pending review](#) (White House, Jan. 20, 2021)
- [PTE 2020-02](#), Improving investment advice for workers and retirees (Federal Register, Dec. 18, 2020)

- [Field Assistance Bulletin 2018-02](#) (DOL, May 8, 2018)

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- [DOL finalizes more fiduciary investment guidance](#) (Dec. 22, 2020)

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