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## Employee Benefits Security Administration

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## News Release

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### **US Labor Department publishes final regulation to improve access to quality investment advice *Regulation implements prohibited transaction exemption under 2006 Pension Protection Act***

**WASHINGTON** – The U.S. Department of Labor’s Employee Benefits Security Administration today issued a final regulation that will enhance retirement security by improving workers’ access to quality fiduciary investment advice. The regulation implements a prohibited transaction exemption under an amendment to the Employee Retirement Income Security Act and the Internal Revenue Code that is part of the Pension Protection Act of 2006.

“Given the rise in participation in 401(k)-type plans and IRAs, the retirement security of millions of America’s workers increasingly depends on their investment decisions,” said EBSA Assistant Secretary Phyllis C. Borzi. “This rule will make high-quality fiduciary investment advice more accessible, while providing important safeguards to minimize potential conflicts of interest.”

The prohibited transaction rules in ERISA and the IRC generally prevent a fiduciary investment adviser from recommending plan investment options if the adviser receives additional fees from the investment providers. Although these rules protect participants from conflicts of interest, ERISA provides exemptions from the rules in appropriate circumstances and permits the department to grant exemptions that have participant-protective conditions. The new regulation implements an exemption that Congress enacted as part of the Pension Protection Act of 2006 to improve participant access to fiduciary investment advice, which contains certain safeguards and conditions to prevent investment advisers from providing biased advice that is not in a participant’s best interest.

To qualify for the exemption in the final regulation, investment advice must be given through the use of a computer model that is certified as unbiased by an independent expert or through an adviser compensated on a “level-fee” basis, meaning that the fees do not vary based on investments selected. Both types of arrangements must also satisfy several other conditions, including the disclosure of the adviser’s fees and an annual audit of the arrangement for compliance with the regulation.

This regulation is separate from and does not affect the Labor Department’s proposed rule on the definition of fiduciary investment advice, which the department recently announced that it will re-propose.

The regulation will be published in the Oct. 25 Federal Register and can be viewed at <http://s.dol.gov/J4>.

U.S. Department of Labor news materials are accessible at [www.dol.gov](http://www.dol.gov). The information above is available in large print, Braille, audio tape or disc from the COAST office upon request by calling 202-693-7828 or TTY 202-693-7755.

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