

**MEMO# 30512**

January 11, 2017

# **White Paper - Evaluating Investor Communication Touchpoints in Response to the DOL Fiduciary Rule**

[30512] January 11, 2017 TO: ICI Members  
Investment Company Directors  
Advertising Compliance Advisory Committee  
Bank, Trust and Retirement Advisory Committee  
Broker/Dealer Advisory Committee  
Chief Compliance Officer Committee  
Operations Committee  
Pension Committee  
Pension Operations Advisory Committee  
Sales and Marketing Committee  
Small Funds Committee  
Transfer Agent Advisory Committee SUBJECTS: Compliance  
Disclosure  
Distribution  
Operations  
Recordkeeping  
Transfer Agency RE: White Paper - Evaluating Investor Communication Touchpoints in Response to the DOL Fiduciary Rule

We are pleased to announce the publication of a new white paper, *Evaluating Investor Communication Touchpoints in Response to the DOL Fiduciary Rule*.

On April 6, 2016, the Department of Labor (DOL) issued a final rule defining who is a “fiduciary” under Section 3(21) of the Employee Retirement Income Security Act of 1974 and Section 4975(e)(3) of the Internal Revenue Code as a result of giving investment advice to an employee benefit plan, plan fiduciary, plan participant or beneficiary, individual retirement account (IRA), or IRA owner. The final rule treats persons who provide investment advice or recommendations for a fee or other compensation with respect to assets of a plan or IRA, as fiduciaries in a wider array of advice relationships.[\[1\]](#)

In advance of the final rule’s applicability date,[\[2\]](#) mutual fund complexes and intermediaries are evaluating whether certain business activities may cause them to be considered a fiduciary. Mutual fund back-office operations (e.g., transfer agent and call center areas that directly support investors) generally plan to operate as non-fiduciaries in

response to the final rule and should consider establishing operational practices that clearly reinforce and represent their non-fiduciary status. They are encouraged to pay particular attention to investor communications via websites, telephones, voice response units, service centers, or in writing.

An ICI working group prepared this white paper to assist fund organizations with evaluating current categories of shareholder communications in response to the final rule. Each category of communication (e.g., fund documents, account applications and forms, correspondence, call center, website) provides questions and issues to consider when drafting communications and preparing training for service center employees. The framework used for analysis was constructed assuming a non-fiduciary status; it can easily be adapted for use by those choosing to operate as a fiduciary under the final rule.

The white paper can be obtained [here](#) and is published as part of the [ICI DOL Fiduciary Duty Rule Resource Center](#).

The working group strongly encourages fund complexes to review all shareholder communications resources cross-functionally, with participation from all affected departments such as operations, legal, and marketing. This approach should contribute toward providing clear communication to investors that is consistent with the fund complex's non-fiduciary status.

Questions or comments on the paper may be directed to the undersigned ([jeff.naylor@ici.org](mailto:jeff.naylor@ici.org); 202-326-5844).

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Director, Operations and Distribution

[Attachment](#)

#### **endnotes**

[1] 81 Fed. Reg. 20946 (April 8, 2016).

[2] The final rule was effective June 7, 2016, but the general applicability date is April 10, 2017.