

MEMO# 35637

February 29, 2024

ICI Submits Statement to House Subcommittee on Health, Employment, Labor, and Pensions

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TO: ICI Members

Pension Committee

Pension Operations Advisory Committee SUBJECTS: Pension RE: ICI Submits Statement to House Subcommittee on Health, Employment, Labor, and Pensions

ICI today submitted a Statement for the record (attached) to the US House Committee on Education and the Workforce Subcommittee on Health, Employment, Labor, and Pensions, in connection with its February 15, 2024 hearing on Protecting American Savers and Retirees from DOL's Regulatory Overreach. The hearing focused on the Department of Labor's (DOL) proposed revised definition of fiduciary investment advice and associated prohibited transaction exemption (PTE) changes ("Proposal").[\[1\]](#)

The Statement reiterates key points ICI made in our comment letter to DOL on the Proposal.[\[2\]](#) Specifically, the Statement points out that:

- The Proposal will trigger negative, unintended, and costly consequences for retirement savers if adopted;
 - The proposed definition of fiduciary advice is overly broad and will have negative implications (i.e., by limiting retirement savers' access to guidance, products and services);
 - The proposed wholesale revisions to the PTE framework for fiduciary investment advice will not benefit investors;
- The Proposal is unnecessary due to recent regulatory changes applying best interest standards more broadly;
- The Proposal is inconsistent with the Fifth Circuit's decision in *Chamber of Commerce of the US v. Acosta* overturning the 2016 fiduciary rule and exceeds DOL's statutory authority;[\[3\]](#) and
- The Proposal fails to meet Administrative Procedure Act standards for economic analysis or notice and comment requirements.

David Cohen
Associate General Counsel, Retirement Policy

Notes

[1] For an overview of the Proposal, see ICI Memorandum No. 35508, dated November 13, 2023, available at <https://www.ici.org/memo35508>.

[2] See ICI Memorandum No. 35570, dated January 4, 2024, available at <https://www.ici.org/memo35570>.

[3] See ICI Memorandum No. 31137, dated March 16, 2018, available at <https://www.ici.org/memo31137>; ICI Memorandum No. 29837, dated April 13, 2016, available at <https://www.ici.org/memo29837>.

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