

VIDEO

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Focus on Funds: Labor Department Proposal Still Raises Red Flags for Retirement Savers

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This week, two important congressional committees approved legislation to replace the proposed fiduciary rule from the U.S. Department of Labor (DOL) with a best-interest standard enshrined into ERISA. In light of this, the February 5, 2016, edition of *Focus on Funds* features ICI General Counsel David Blass revisiting the many problems associated with the DOL's proposed fiduciary rulemaking.

Transcript

Stephanie Ortvals-Tibbs, Director, ICI Media Relations: Welcome to *Focus on Funds*, the Investment Company Institute's weekly roundup of industry news, ICI activities, and research findings.

Funds and their investors should be deeply concerned about a proposed new set of rules in the Department of Labor that would govern the interaction between funds and retirement savers. ICI has filed four comment letters with the Department, outlining a raft of concerns it has with the current proposal, and I spoke with ICI's General Counsel David Blass about some of our key comments.

David Blass, ICI General Counsel: So, first of all, we support the underlining principal of the proposal, which is retirement savers should get advice that's in their best interest. We strongly support that as a proposition. The problem is that the DOL went in a very different direction with its proposal and introduced a ream of red tape that our letters suggest they cut through. So they should be more narrow and targeted in terms of who is a fiduciary and subject to all of this red tape and they should really think about all the requirements that come along with being a fiduciary and really dial this back so that advice to retirement savers is still available to retirement savers and is not more costly than it is today.

Ortvals-Tibbs: There are some really interesting examples that you offer in the letter about how this could affect retirement savers. Can we run through some of the real life

impact it could have?

Blass: Absolutely. So, one impact is just calling up a call center or going to a website and getting information from a fund shop about the funds that are offered. That interaction shouldn't be viewed as a fiduciary interaction but under the DOL's proposal it is. So the net effect is that, that information won't be there for retirement savers if the DOL adopts this rule and they really need to rethink that.

Ortbals-Tibbs: So, in terms of rethinking, what are we suggesting? What are some of the constructive approaches that we suggest they take to revise what they've put out?

Blass: Well, we have a number of suggestions. One is a more targeted definition of who is a fiduciary. For sure, that's an important one, ultimately for investors. We think a more targeted disclosure set of obligations is appropriate. The DOL has a regime in place that is more targeted; they chose not to use that in the proposal, and that was a real mistake because the disclosure that they came up with is so granular and so overwhelming that effectively, it's useless to investors.

Ortbals-Tibbs: And the other thing we really think they need to go back and relook at is the regulatory impact analysis.

Blass: So we've done a lot of work analyzing the regulatory impact analysis, which ultimately is an economic analysis of the proposal and to be honest, we think the DOL just got it wrong and they need to restart it and redo their impact analysis. We think if they do that and focus on the potential harm to investors that will occur due to these rules they really will make different policy choices to make the rules more reasonable at adoption.

Ortbals-Tibbs: And we do hope at the end of the day that there will be something that will come out of this that will be much more workable for retirement savers and fund investors.

Blass: Ultimately our goal is to promote the interest of investors, we think that should be the DOL's goal as well, and we think a revisiting and an adjustment of the rules is needed to achieve that goal.

Ortbals-Tibbs: That's this week in funds. See you next week.

Additional Resources

- [Release: ICI Seeks Improvements Toward a Workable Fiduciary Standard Rule](#)
- [ICI's Fiduciary Duty Rule Resource Center](#)