COMPETITIVE ENTERPRISE INSTITUTE

March 17, 2017

The Office of Regulations and Interpretations
Employee Benefits Security Administration
Attn: Proposed Definition of Fiduciary Regulation
Room N-5655
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Re: RIN 1210-AB79

Dear Sir or Madam,

On behalf of the Competitive Enterprise Institute, I am pleased to provide these comments in strong support of the Department of Labor's proposed 60-day delay in the applicability, or compliance, date of the final rule under the Employee Retirement Income Security Act of 1974 (ERISA) that redefines the term "fiduciary" under section 3(21) of ERISA and section 4975(e) of the Internal Revenue Code of 1986. I also strongly support delaying the applicability dates of the prohibited transaction exemptions granted in connection with this rule.

Founded in 1984, the Competitive Enterprise Institute (CEI) is a non-profit research and advocacy organization that focuses on regulatory policy from a pro-market perspective. A strong focus of CEI is regulatory barriers affecting access to capital and investor choice.

CEI has strongly objected to this rule due to its likely harmful effects on middle-income savers and the entrepreneurs and employees of firms that provide them with guidance and a wide range of investment options. Enclosed are the comments that my colleague Christopher Kuiper and I – in collaboration with scholars from the FreedomWorks Foundation -- submitted after the rule was proposed in 2015, along with my 2016 paper on the rule.

In our comments and in the paper, we warned that savers would lose access to financial products they feel best suit them in saving for retirement and would not be able to maintain relationships with the brokers, insurance agents, and other professionals they have chosen to service their retirement accounts. Based on press accounts, our warning already appears to be coming true as

financial firms are rushing to prepare to be in compliance with this rule by the short deadline of April 10 set during the previous administration.[1]

We applaud the DOL's decision, pursuant to President Donald Trump's February 3 executive memorandum, to review the rule for these and other harmful effects and possibly to rescind the rule. It should go without saying that during this period of review, delaying the applicability date of the rule is crucial to lessen the harms of the rule and prevent confusion among financial professionals and savers.

We urge DOL to delay the applicability date as proposed, and to continue the delay as necessary while the rule is under review.

Sincerely,

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Appendices:

Comments of the Competitive Enterprise Institute and FreedomWorks Foundation on the Definition of the Term ''Fiduciary''; Conflict of Interest Rule—Retirement Investment Advice of the U.S. Department of Labor, Employee Benefits Security Administration by John Berlau, Chris Kuiper, and Wayne Brough, July 21, 2015

And

The Department of Labor's Fiduciary Rule for Dummies (But Not the Dummies They Think We Are) Rule Blocks Investment Choices and Could Cost Middle Class Savers Billions by John Berlau, March 2, 2016

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[1] Robert Powell, "How You Pay For Investment Advice Is Changing," *USA* Today, October 12, 2016, http://www.usatoday.com/story/money/columnist/powell/2016/10/12/merrill-lynch-commissions-retirement-accounts-fiduciary/91743356/

Comments of the Competitive Enterprise Institute and FreedomWorks Foundation

on the

Definition of the Term ''Fiduciary''; Conflict of Interest Rule—Retirement Investment Advice

of the

U.S. Department of Labor, Employee Benefits Security Administration

RIN: 1210–AB32

Docket ID: EBSA-2010-0050

Submitted: July 21, 2015

Prepared by

John Berlau, Senior Fellow, Competitive Enterprise Institute

Christopher Kuiper, Chartered Financial Analyst,
Research Associate, Competitive Enterprise Institute

Wayne T. Brough, PhD,
Chief Economist and Vice President for Research, FreedomWorks Foundation

Dear Sir or Madam,

On behalf of the Competitive Enterprise Institute and FreedomWorks Foundation, we are pleased to provide these comments on the proposed rulemaking regarding "Definition of the Term 'Fiduciary'; Conflict of Interest Rule Retirement Investment Advice" (RIN 1210-AB32) and associated notices of proposed Prohibited Transactions Exemptions published on April 20, 2015.

Founded in 1984, the Competitive Enterprise Institute (CEI) is a non-profit research and advocacy organization that focuses on regulatory policy from a pro-market perspective. A strong focus of CEI is regulatory barriers affecting access to capital and investor choice. Many of the policy solutions CEI has put forward over the years were incorporated into the Jumpstart Our Business Startups (JOBS) Act, signed by President Barack Obama in 2012.

Over the past four years, Mr. Berlau has testified before the House Energy and Commerce Committee and the House Financial Services Committee on access to credit and capital for consumers and small business. In addition, before he came to CEI, Mr. Berlau had written about both capital formation and investor protection as a journalist for publications such as Investor's Business Daily and the Washington Times. Mr. Kuiper is a CFA® charterholder and former research analyst with Calamos Investments.

FreedomWorks Foundation is a 501(c)(3) educational institution that promotes the adoption of, free market policies that inure to the benefit of consumers and citizens generally. Accordingly, FreedomWorks Foundation has taken an active part in the public debate on issues of economic and regulatory importance in many sectors of the economy, including financial services, energy, and technology, among others. Mr. Brough has testified before Congress, federal agencies, and state legislatures on various regulatory topics. Formerly, he worked at the Office of Information and Regulatory Affairs within the Office of Management and Budget where he was responsible for reviewing transportation regulations.

Introduction: *The rule's underlying premise is wrong – with disclosure and transparency, individuals can "prudently manage" retirement accounts.*

Early on in the proposed regulation, the DOL makes clear that its primary rationale is not preventing fraud or even improving disclosure, but rather restricting choices of individual savers that the DOL deems imprudent. The DOL expresses the view that "seldom" can Americans "prudently manage retirement assets on their own," and that they "generally cannot distinguish … good investment results from bad." Therefore, the rule's restrictions of choices in 401(k)s and individual retirement accounts (IRAs) are supposedly needed because "disclosure alone has proven ineffective."

This rationale is dubious because it goes against core beliefs about individual liberties that not only motivated this country's founding documents, but are expressed by policymakers of many persuasions. This core belief posits that adult individuals – guided by rules for transparency and disclosure – should be able to make informed choices about matters that impact their lives.

In signing the JOBS Act in 2012, President Obama opined that "ordinary Americans" should "be able to go online and invest in entrepreneurs that they believe in."[2] Yet by writing a proposed rule that goes beyond its mandate from the Employee Retirement Income Security Act of 1974 (ERISA) and that end-runs the Securities and Exchange Commission (SEC) in regulation of the securities market, the DOL eviscerates bipartisan goals of investment liberalization from the JOBS Act and other public policies. If the proposed rule goes into effect, not only will today's retirement savers lose choices, they will have to pay dramatically more for basic services to maintain their IRAs and 401(k)s. Thus, the new rule also goes against the intentions of the drafters of ERISA, as saving for retirement will become much less secure.

Savers would become less informed and lose access to brokerage services under the rule.

In this rule, the DOL claims authority under ERISA to reclassify a broad swath of investment professionals as "fiduciaries" with a government-imposed "best interest" standard, which subjects them to heavy penalties and lawsuits if the DOL or a court determines that they deviated from this standard. This is true even for financial professionals, such as appraisers, whose clients manage their own 401(k) portfolios or hold self-directed IRAs. Individual savers could also be hit with excise taxes up to 100 percent if an investment choice they make under current rules is suddenly deemed a "prohibited transaction" under the new rule.

Such restrictions and prohibitions would have devastating impacts on savers' ability to educate themselves through investment guidance and make what they believe are the best choices for their retirement. First, by creating a presumption against broker compensation from mutual funds or annuities – even if there is heightened disclosure to the investor – the rule will force brokers to charge more for services to lower or middle income investors and will likely result in many of these savers losing services entirely. Similar rules implemented by the United Kingdom in 2013 that banned outside compensation caused banks to stop servicing accounts below $80,000 in U.S. dollars[3]

A study by the consulting firm Oliver Wyman and the Securities Industry and Financial Markets Association concluded that 12 million to 17 million investors could lose access to their current service providers under a less stringent fiduciary mandate considered by the SEC—so losses under the proposed DOL rule likely would be even worse.[4] And because the proposed rule does not even contain a simple exemption for call centers, investors may lose crucial outside guidance to simple queries.

Clearly, investors should be able to choose which model of investment professionals they want servicing their retirement accounts. And clearly, in the case of IRAs, they should be allowed a broad choice of assets to have in their accounts.

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[2] "Remarks by the President at JOBS Act Bill Signing," The White House, Apr. 5, 2012, http://www.whitehouse.gov/the-press-office/2012/04/05/remarks-president-jobs-act-bill-signing

[3] Testimony of Kent A. Mason before the Education and the Workforce Committee, U.S. House of Representatives, June 17, 2015, http://edworkforce.house.gov/uploadedfiles/testimony_mason.pdf

[4] "Study - Standard of Care Harmonization, Impact Assessment for SEC," Oliver Wyman and the Securities Industry and Financial Markets Association, Nov. 1, 2010, http://www.sifma.org/issues/item.aspx?id=21999

Many self-directed IRAs contain, by the individual investor's design, everything from precious metals such as gold and silver to peer-to-peer loans from platforms such as Prosper and Lending Club. Venture capitalists and angel investors have also given crucial seed funding to startup businesses through their IRAs, and some of these firms went on to create thousands of jobs and changed the way we live. According to Forbes, venture capitalist Peter Thiel invested in Facebook in its early stages partially through his IRA.[5] Whether inclusion of these alternative assets is a good investment strategy is a matter of opinion, but it should be a choice for the investor to make. But this is a choice they may lose if mere appraisers of assets in IRAs -- who don't in any way purport to provide investment advice -- are suddenly deemed "fiduciaries" under this rule.

There is no such thing as a one-size fits all 'best interest'

Some commenters critical of the proposed rule have professed support for some type of "best interest" mandate. We decline to do so, as we believe that discerning investors in choosing their service providers are best suited to determine their own best interests. Any government edict for "best interest" runs the dangers of biasing investors and financial professionals toward investments they believe the government favors.

This is illustrated in the proposed rule's seeming favoritism toward passively managed index funds, as opposed to actively managed funds. The rule states, "Facilitating investments in such high-quality, low-fee products would be consistent with the prevailing (though by no means universal) view in the academic literature that posits that the optimal investment strategy is often to buy and hold a diversified portfolio of assets calibrated to track the overall performance of financial markets."

This greatly oversimplifies the current debate among financial experts. Index funds may in aggregate be cheaper, but their low expense ratios do not reflect the total cost. Active managers, for instance, can protect investors on the downside, pure passive and index investing cannot. Studies have confirmed active funds' underperformance on the way up during booms but outperformance on the way down during busts.[6] This is an incredibly important and overlooked fact, especially for those savers nearing retirement who don't have another 20 years or more left in their investing lifetime. For them, capital *preservation* is much more important than capital *appreciation.* Yet this fact gets lost in the proposed rule, as DOL cites studies that only look at total and aggregate outperformance vs. underperformance with a perpetual time frame.

Also important is that not *all* active managers consistently underperform and investors should have the freedom to try to invest in those that do outperform. Research on how active funds, *in aggregate*, do not outperform passive funds after fees does not mean there are not specific managers or funds that consistently outperform. Such managers have been documented,[7] and investors should be allowed to

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[5] Deborah L. Jacobs, "How A Serial Entrepreneur Built A $95 Million Tax Free Roth IRA," *Forbes,* Mar. 20, 2012, http://www.forbes.com/sites/deborahljacobs/2012/03/20/how-facebook-billionaires-dodge-mega-millions-intaxes/

[6] Robert Isbitts, "Index funds beat active 90% of the time. Really?," *Advisor Perspectives*, Aug. 2, 2014, http://www.advisorperspectives.com/commentaries/sungarden_080214.php

[7] Among the outperforming funds available to retail investors listed by Morningstar.com are the Artisan Global

use their own money to try to choose outperforming funds. Restricting investment choices to what the government deems as superior would be akin to restricting consumer choice to certain car models or manufacturers that bureaucrats deem are better.

Conclusion

In the past two weeks, there has been a surge of new comments. Feedback for the rule has climbed to around 2000 comments. Many of the commenters express the view that they simply want to be left alone. "Stay out of my retirement investing,"[8] and "please stay out of my 401(k)"[9][10] are the typical sentiments of these concise comments.

The DOL should heed these voices, review the complete set of data and withdraw the proposed rule. Then, it should offer a new proposal that allows for improved disclosure and broadened investment options.

Sincerely,

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[8] Comments of Stan Nackdymon to the Employee Benefits Security Administration of the U.S. Department of Labor, July 9, 2015, http://www.regulations.gov/#!documentDetail;D=EBSA-2010-0050-0474

[9] Comments of John O'Neill to the Employee Benefits Security Administration of the U.S. Department of Labor, July [10] , 2015, http://www.regulations.gov/#!documentDetail;D=EBSA-2010-0050-0431

COMPETITIVE ENTERPRISE INSTITUTE

WEBmemo

March 2, 2016 No. 35

The Department of Labor's Fiduciary Rule for Dummies (But Not the Dummies They Think We Are)

Rule Blocks Investment Choices and Could Cost Middle Class Savers Billions

By John Berlau[11]

This briefing paper explains the Department of Labor's (DOL) needlessly complex "fiduciary rule," now being reviewed at the Office of Management and Budget and soon to become a final rule. Given the language in the rule, DOL may well believe it was drafting a "fiduciary rule for dummies," because it expresses doubt that savers can make wise investment choices in their 401(k)s and individual retirement accounts. In the proposed fiduciary rule it issued last April, DOL proclaims that individuals cannot "prudently manage retirement assets on their own," and that they "generally cannot distinguish good advice, or even good investment results, from bad."[1]

Q: What is the justification for the fiduciary rule? Is it intended to improve disclosure for 401(k)s and IRAs?

A: In the Department of Labor's own words, no, because even with disclosure, DOL argues, savers are not smart enough to make what DOL considers the correct investment decisions for their retirement. "Disclosure alone has proven ineffective," states the rule. In fact, proclaims DOL, "recent research suggests that even if disclosure … could be made simple and clear, it would be ineffective—or even harmful."

The Department of Labor wants to mandate that a broad swath of financial professionals who service 401(k) plans and individual retirement accounts only serve the "best interest" of savers when providing investment guidance—with the definition of "best interest" to be decided by regulators. It does so by defining these professionals as "fiduciaries."

[11] John Berlau is a senior fellow at the Competitive Enterprise Institute (CEI). CEI Research associate Jack Salmon assisted with this paper.

Q: Why is DOL even involved? Isn't the Securities and Exchange Commission (SEC) the agency charged with regulating investments?

A: DOL is bypassing the SEC to reshape the investment industry by massively, and probably illegally, stretching the very limited authority DOL has over some types of retirement plans from the Employee Retirement Income Security Act (ERISA) of 1974. ERISA gave DOL power over financial services professionals that have clear "fiduciary" relationships with retirees, such as those who manage a defined-benefit pension plan or provide regular investment advice for a fee. The new rule is broadening the definition of "fiduciary" (as explained below) in a way that directly conflicts with the definition of the term under both federal securities laws and common law precedent of state courts, in order to place more in the finance industry under DOL's jurisdiction.

Q: Who would be a "fiduciary" under the DOL rule?

A: A better question might be, "Who wouldn't be?" Most of the news coverage of the rule has focused on the fact that it would deem broker-dealers "fiduciaries," clashing with the SEC, which so far has declined to designate them as such. But the rule would go much further than that. Under the new rule, financial professionals who provide even one-time guidance or appraisal of investments could find themselves classified as "fiduciaries."

As Eugene Scalia, a partner at Gibson, Dunn & Crutcher who has successfully challenged many financial regulations in court, wrote in his comments to DOL on the proposed rule:

> The Department has proposed a definition of "fiduciary" so broad that it must be accompanied by seven carve-outs and six prohibited transaction exemptions to limit the scope of even a small portion of the vast new regulatory regime it would establish. A regulatory definition that cannot function or be harmonized with generations of practice unless it is re-worked through a dizzying array of carve-outs and exemptions is, axiomatically, a definition that does not faithfully interpret the words Congress wrote.[2]

For centuries, the standard definition of fiduciary has been someone in a clear position of trust.[3] In finance, this means someone whom the client has specifically entrusted to manage his or her assets and make investment decisions. While managers of defined benefit pensions and registered investment advisers have qualified as fiduciaries under various laws, broker-dealers have not, because they have been considered more akin to salespeople. While the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 gives the SEC the authority to deem broker-dealers as "fiduciaries," with the attendant duties that entails, it has not *required* the SEC to do so, and the SEC has not done so to date.

But the Labor Department, which was never given authority from Congress to broaden the term "fiduciary," is trying to do an end-run around the SEC via this rule. Under DOL's expanded definition, broker-dealers, insurance agents who recommend annuities, appraisers of a self-directed IRAs, and others who clearly are not entrusted to manage a portfolio—the classic definition of a fiduciary—may

find themselves facing fiduciary liability and punishment under the new rule. In fact, according to some observers, the rule may even extend to television and radio hosts who give advice to individual callers.

In recent article in LifeHealthPro, a prominent online trade journal for insurance professionals and financial advisers, insurance agent Michael Markey calls for radio host Dave Ramsey to "be regulated and to be held accountable" by the government for the opinions he gives to listeners. Going through a litany of financial tips given by Ramsey to callers on which Markey holds differing views, such as on what type of life insurance to purchase, Markey hails the DOL rule as ushering in a new era in which "entertainers like

Dave Ramsey can no longer evade the pursuit of regulatory oversight."[4]

The rule could ensnare financial broadcasters as fiduciaries, as Kent Mason, partner at the Washington, D.C. law firm Davis & Harman points out. "Under the proposed regulation, investment advice from a radio host to a caller regarding the caller's own investment issues would appear to be fiduciary advice if the advice addresses specific investments," Mason said in an email to CEI. It does not matter that Ramsey and other hosts are not compensated by listeners, he adds, as the DOL rule explicitly covers those who give investment advice and receive compensation "from any source."[5]

Mason agrees with Markey that the compensation Ramsey receives from radio stations that carry his show and from book sales are enough to define Ramsey as a "fiduciary" under the rule. Although the rule does contain an exemption for "recommendations made to the general public," both Mason and Markey agree it would not protect Ramsey and other radio and television presenters if they gave specific answers to callers or audience members.

Q: Will the fiduciary rule restrict choices and lead to government-favored investment decisions?

A: As noted, the DOL rule labels a vast number of financial professionals as "fiduciaries," and imposes on them a mandate to invest in savers' "best interest." Center-left economists Robert Litan and Hal Singer describe this "best interest" requirement as "a vague open- ended obligation with seemingly no bounds."[6] As a result, it will be almost inevitable that financial service providers will restrict choices of investment vehicles and strategies and look for a "safe harbor" of particular investments the government would bless.

This restriction in choices would have many adverse consequences. As CEI and the

FreedomWorks Foundation noted in comments to DOL, many investors have self-directed IRAs with alternative assets from precious metals to peer-to-peer loans. We wrote:

> Venture capitalists and angel investors have also given crucial seed funding to startup businesses through their IRAs, and some of these firms went on to create thousands of jobs and

> changed the way we live. According to *Forbes*, venture capitalist Peter Thiel invested in Facebook in its early stages partially through his IRA.[7]

We further note that "whether inclusion of these alternative assets is a good investment strategy is a matter of opinion, but it should be a choice for the investor to make."

The DOL rule posited that index funds would be viewed as an investment choice that would comply with the "best interest" standard. But as we noted in the comments (co-authored by Chartered Financial Analyst Christopher Kuiper, then a CEI research associate):

> Index funds may in aggregate be cheaper, but their low expense ratios do not reflect the total cost. Active managers, for instance, can protect investors on the downside; pure passive and index investing cannot. Studies have confirmed active funds' underperformance on the way up during booms but outperformance on the way down during busts.[8]

Also of concern is an October 2015 Department of Labor interpretive bulletin that endorses so-called socially responsible investing for "fiduciary" pension plans currently governed under ERISA. DOL states:

> Fiduciaries … do not need to treat commercially reasonable investments as inherently suspect or in need of special scrutiny merely because they take into consideration environmental, social, or other such factors.[9]

DOL's glowing description of such politically correct investments indicates it may encourage them as a way for newly minted "fiduciaries" to comply with the "best interest" mandate.

Q: What are the most far-reaching consequences of this rule?

A: A "guidance gap" created by the rule could cost middle-class savers $80 billion in lost savings, according to Litan and Singer.[10] Brokers would have to charge investors much more, because the DOL rule creates a presumption against brokers taking third-party commissions from mutual funds they sell to savers. As a result, investors who currently pay only a small commission on the execution of an order may have to pay a much larger fee based on a percentage of their assets. And since some portfolios are too small to justify the cost of even a management fee, brokers will simply stop servicing them.

For illustration, we can look to what happened in the United Kingdom after it banned thirdparty commissions in 2013. A June 2013 study by the Cass Business School at City University London found that brokers had largely stopped serving British savers with portfolios below £150,000 ($240,000), because the fees alone would not pay for servicing the accounts.[11] This study and other research estimates that this "guidance gap" will see 85 percent of British savers lose their brokers or get reduced

services for their retirement accounts. Litan and Singer argue that similar effects will take place here, and estimate that savers could lose $80 billion over 10 years because of it.[12]

Q: What can Congress do to stop implementation of the fiduciary rule?

A: Members of Congress from both parties have expressed serious concerns about the rule.

In September, 96 House Democrats, including avowed progressives like Rep. Gwen Moore (D-Wis.), wrote to DOL expressing concern about its effects on consumer choice and access to advice, and the potential for low-income savers to lose access to vital financial services.[13]

Congress has a variety of options to block or delay implementation of the DOL rule, including defunding, voting the measure down, and rewriting the law. These options are not mutually exclusive. One thing Congress must do when the final rule comes out—assuming it is not substantially different from the proposed rule, which it most likely will not be—is to exercise its prerogative under the Congressional Review Act (CRA) to vote down the rule with a resolution of disapproval.

Under the CRA, Congress has 60 legislative days after a final rule is released to disapprove of that rule. The votes take place in an expedited procedure with no filibuster allowed, so only a simple majority is required for passage. The resolutions are still subject to presidential veto, but even if the president vetoes it, and there are not enough votes for an override, the statement of disapproval by Congress is still important. It forces Members of Congress and the President to go on the record as supporting or opposing a given measure, thus providing important information for voters.

The resolution of disapproval stands as a statement that the president is going against Congressional intent. As Jeff Rosen of the law firm Kirkland & Ellis pointed out recently on the blog of the *Yale Journal of Regulation*, CRA votes "could be relevant to lawsuits" under the Administrative Procedure Act.[14] This would seem to be especially true in cases such as this, in which the regulation departs so much from the law on which it claims to be based. Thus, subsequent lawsuits challenging the rule will almost certainly point to lack of authority from Congress.

Notes

[1] Definition of the Term "Fiduciary"; Conflict of Interest Rule—Retirement Investment Advice, 80 *Federal Register* 21,928, 21,932 (Apr. 20, 2015) (to be codified at 29 C.F.R. pts. 2509, 2510).

[2] Eugene Scalia is the son of the late Supreme Court Justice Antonin Scalia. Comments of Eugene Scalia to the Employee Benefits Security Administration of the U.S. Department of Labor, July 20, 2015, http://www.dol.gov/ebsa/pdf/1210-AB32-2-00547.pdf.

[3] Roget's Thesaurus deems the word "fiduciary" interchangeable with "guardian" and "trust." http://www.thesaurus.com/browse/fiduciary

[4] Michael Markey, "What If Dave Ramsey Were Held to a Fiduciary Standard," LifeHealthPro, October 22, 2015, http://www.lifehealthpro.com/2015/10/22/what-if-dave-ramsey-were-held-to-a-fiduciarystand?slreturn=1455801277.

[5] Author interview with Kent Mason, November 16, 2015.

[6] Robert Litan and Hal Singer, "Good Intentions Gone Wrong: The Yet-to-Be- Recognized Costs of the Department Of Labor's Proposed Fiduciary Rule," Report prepared by Economists Incorporated for the U.S. Department of Labor, July 2015, p. 6, http://www.dol.gov/ebsa/pdf/1210-AB32-2-00517.pdf.

[7] Comments of the Competitive Enterprise Institute and FreedomWorks Foundation to the Employee Benefits Security Administration of the U.S. Department of Labor, July 21, 2015, p. 4, http://www.dol.gov/ebsa/pdf/1210-AB32-2-00771.pdf.

[8] Ibid, p. 5.

[9] "Economically Targeted Investments (ETIs) and Investment Strategies that Consider Environmental, Social and Governance (ESG) Factors," Employee Benefits Security Administration of the U.S. Department of Labor, October 22, 2015, http://www.dol.gov/ebsa/newsroom/fsetis.html.

[10] Litan and Singer.

[11] Andrew Clare et al, "The Impact of the RDR on the UK Market for Financial Advice," Cass Business School, June 2013, http://www.cass.city.ac.uk/__data/assets/pdf_file/0016/202336/The-impact-of-RDR-Cass-version.pdf.

[12] Litan and Singer.

[13] Nick Thornton, "Over Half of House Democrats Call for Changes in DOL Fiduciary Rule," BenefitsPro, September 24, 2015, http://www.benefitspro.com/2015/09/24/over-half-of-house-democrats-call-forchanges-in-d?slreturn=1454941863.

[14] Jeff Rosen, "The Congressional Review Act Revisted," *Yale Journal of Regulation*, December 14, 2015, http://www.yalejreg.com/blog/the-congressional-review-act-revisited-by-jeff-rosen.