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Alternative to DOL Fiduciary Rule Proposed in Congress

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Lawmakers in Congress are proposing an alternative to a federal agency's proposed regulation on the investment industry, which they say will balance consumer protection and address compliance cost concerns.

The U.S. Department of Labor's (DOL) proposed "fiduciary rule" places stricter standards on investment brokers, requiring them to act solely in the client's interests, instead of the current "suitability standard," which requires a "reasonable basis to believe that the recommendation is suitable for a particular customer."

The fiduciary rule was submitted to the White House Office of Management and Budget in January and will take effect 60 days after it is published.

New Standard for Investment Advice

U.S. Rep. Peter Roskam (R-IL) is sponsoring legislation offering an alternative to the DOL rule, the Strengthening Access to Valuable Education and Retirement Support (SAVERS) Act. If approved by lawmakers and signed into law, a "best-interest standard" would be created, requiring investment advisors to recommend investments in which the "person places the interests of the plan or advice recipient above its own."

Thaya Knight, an associate director of financial regulation studies at the Cato Institute, says the DOL fiduciary rule would have a massive effect on investors with smaller accounts by decreasing their access to professional investment advice.

"Investment advisors tend to take a percentage, usually 1 percent, of the assets under management or work on some sort of flat-fee basis," Knight said. "However, that only really works when you have a certain amount of assets. Most middle-class workers don't have a million dollars in savings to make that 1 percent worthwhile."

Brokers Will Go Broke

Roskam told *Budget & Tax News* the proposed fiduciary rule would have detrimental long-term consequences for many Americans' retirement accounts.

"At first blush, the DOL's rule appears reasonable," Roskam said. "However, when you look deeper, you realize two things: It is unreasonable, and the long-term effect is to drive the private sector out of the retirement space. I'm not talking tomorrow, but decades from now."

Roskam says his proposal will protect investors without putting brokers out of business.

"The current standard is just proposing a product that is suitable for a client," Roskam said. "What the Obama administration says is that it has to be a fiduciary standard, which would really end up limiting the capacity for people to get advice. A best-interest [standard] says you have to put the clients' interests before yours as a financial advisor."