# Bond Case Briefs

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## Reuters: Fiduciary Rule, Long Postponed, Faces More Delays, Lobbying.

The long-running Washington debate over whether and how to beef up ethical standards for Wall Street brokers who give financial advice shows no sign of ending.

Some industry lobbyists are even stepping up their lobbying on the so-called fiduciary rule. The traditional brokerage industry would like there to be room for industry practices like selling brokerage-branded funds that can be more expensive than alternatives.

At issue are plans to develop two different rulemakings, the process agencies use to develop and approve rules. The U.S. Securities and Exchange Commission has been mulling a requirement that brokers be fiduciaries. That would force them to put their clients' interests ahead of their own in every recommendation, a tougher standard than the current requirement that they simply recommend "suitable" investments.

The second rulemaking, in the works at the U.S. Department of Labor, would impose fiduciary responsibilities only on advisers serving workplace retirement plans and individual retirement accounts.

Draft legislation that could delay both of those rulemakings will be presented to the U.S. House Financial Services Subcommittee on Capital Markets and Government Sponsored Enterprises on Thursday.

The proposal from Missouri Republican Ann Wagner would require the SEC to coordinate with the Labor Department and other agencies to ensure rules they establish are consistent. In addition, the SEC would have to do a cost-benefit analysis to justify its possible rule, according to the draft. The SEC would also have to determine whether retail customers are being harmed by the lack of the fiduciary standard.

The Financial Planning Coalition, a pro-fiduciary standard group, issued a statement on Wednesday saying the Wagner plan could add a roadblock to the rulemaking process and "may have the unintended consequence of frustrating any ongoing efforts to increase standards of care for financial professionals."

The securities industry has a different view. "I don't think we want to rush into a regulatory position without adequate vetting," said Judd Gregg, chief executive of the Securities Industry and Financial Markets Association (SIFMA), at a briefing for reporters on Monday. The group, which announced Gregg's appointment Monday, represents hundreds of securities firms, including the largest retail brokerages.

While the Wagner plan may be a long shot for final enactment, it offers one more ray of hope for industry lobbyists who may be aiming to delay the SEC rule indefinitely.

"If our members have more time to prepare for the worst, they are in a better position," said David

Bellaire, executive vice president and general counsel for the Financial Services Institute, which represents many advisers who service smaller accounts such as IRAs.

Bellaire was referring to the Labor Department's rule, which was first proposed in October 2010 and has been expected to be reproposed for comment in July. Now it may not surface until later in the year, Bellaire said. The group is concerned that the DOL's plan will limit the types of fees advisers can collect for servicing IRA accounts. He did not comment on Wagner's draft legislation, which he had not yet seen.

MORE TIME TO LOBBY

Industry groups, which could change how brokers do business, have churned up waves of industry lobbying. FSI, which put the fiduciary rule at the top of its lobbying issues in a recent federal disclosure, plans to bring about 150 members to Washington in July to voice concerns to their representatives and senators about the fiduciary rule and other issues. It spent $196,000 on lobbying in the first quarter of 2013; that's almost half the $440,000 it spent in all of 2012.

SIFMA listed 10 lobbyists working on the DOL proposal and business conduct standards, among other concerns, in its recent federal disclosure form.

The National Association of Insurance and Financial Advisors (NAIFA) spent $665,000 lobbying multiple issues in the first quarter of 2013 and listed four lobbyists working on the DOL proposal and other regulatory issues. The group represents smaller advisers, many of whom would be affected by the implementation of a new Labor Department rule.

DODD-FRANK REDUX

The debate about the fiduciary standard was finally encoded in the 2010 Dodd-Frank financial reform law, which Wagner's plan would amend. That law directed that the SEC study the issue and be authorized (but not required) to develop new rules.

Last week the House passed a bill from New Jersey Republican Scott Garrett on party lines that will force federal securities regulators to conduct more analysis of costs and benefits before adopting rules for Wall Street.

"This bill could truly keep us from moving forward," said SEC Commissioner Elisse Walter at the Financial Industry Regulatory Authority's annual meeting this week. "We would be more frozen in place than we are now."

She said the SEC already has a "very high standard" of economic review.