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SEC Puts Fiduciary Duty on 2014 Agenda as "Long-term action."

DOL's fiduciary rule for retirement plans due out in August

The Securities and Exchange Commission is pursuing a rule that would raise investment-advice standards for brokers — just not in the near future.

But that is enough to give fiduciary-duty advocates hope.

The SEC put the rule on a 2014 regulatory agenda that included 43 items.

It was slated for "long-term action" without a specific timetable. Topics in the "proposed-rule stage" and "final-rule stage" were higher on the priority list.

Meanwhile, the Labor Department indicated on its 2014 priority list that in August it would re-propose its fiduciary-duty rule for investment advice pertaining to retirement plans. The measure was first floated in 2010 but withdrawn after fierce financial industry protest that its requirements would drive brokers out of the market for individual retirement accounts.

The SEC took off its list for next year a rule regarding mutual fund distribution fees.

The regulatory outlook, which was released last week by the Office of Management and Budget, covers a time period from now until next October. Neither agency has to follow the agenda strictly.

It can act on items that don't currently appear.

The Dodd-Frank financial reform law gave the SEC the authority to promulgate a regulation that would require brokers to act in the best interests of their clients when providing retail investment advice — a more stringent standard than the suitability requirement that now governs sales of investment products. Investment advisers must act in the best interests of their clients.

The SEC is conducting a cost-benefit analysis of a potential fiduciary-duty rule.

Although action isn't imminent on a proposal, one advocate noted that it is one of the few non-mandatory Dodd-Frank provisions that appears on the 2014 regulatory agenda.

"There is real interest in this at the SEC," said Neil Simon, vice president for government relations at the Investment Adviser Association.

"It is a priority but not a top priority," he said. "I do believe in time they will proceed."

The SEC Investor Advisory Committee on Nov. 22 urged the commission to advance a fiduciary-duty regulation. That move, however, didn't appear to move fiduciary duty up on the SEC's regulatory agenda.

For 2013, it was listed under the heading of “pre-rule stage” – a designation that is about the same as “long-term action.”

“They’ve been looking at it for long time,” said Nancy Lininger, founder of The Consortium, a compliance consultant for investment advisers and brokers.

“Obviously, it’s not high on the list,” she said. “I thought [the IAC vote] would be the kick in the butt that would get the SEC going, but I guess not.”

The SEC and Labor Department agendas demonstrate that each regulator continues to move at its own pace regarding their fiduciary-duty rules. In October, the House passed a bill that would require the Labor Department to delay its rule until the SEC has acted.

“Maybe extending the timeline just a bit will allow them to get their ducks in a row and line up support for the proposal,” Mr. Simon said.

By Mark Schoeff Jr.