

Bond Case Briefs

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BDA Testifies Before U.S. Department of Labor on Fiduciary Duty.

BDA CEO Mike Nicholas testified before the U.S. Department of Labor (DOL) regarding its proposal to expand the definition of “fiduciary” under the Employee Retirement Income Security Act (ERISA).

In his remarks, Nicholas focused on how the proposed expansion would significantly limit the ability of dealers to provide investment advice and recommendations to retirement investors. You can find his prepared remarks [here](#).

Specifically, Nicholas spoke about how the BDA does not believe the proposed rule or the associated exemptions represent the right approach for improving the market for retirement investment advice and services. He further stated that the proposal naturally favors an investment advisory business model over a commission-based brokerage model.

BDA recommendations and concerns include the following:

- The BDA encourages and supports a harmonized multi-agency approach in which the DOL and SEC develop a uniform best interest standard of care
- The BDA believes the Best Interest Exemption is not in the best interests of investors and is especially concerning given restrictions on transactions in taxable or tax-free municipal bonds
- The Principal Trading Exemption explicitly restricts investor asset choice and ignores the existing broker-dealer regulatory regime

In addition to Nicholas’ testimony, BDA has submitted a [comment letter](#) to the Labor Department regarding its [request for comment](#). BDA’s letter recommends the DOL to take an alternative approach and urges the DOL work with SEC to craft a rules-based uniform best interest standard of care for investors generally, not just retirement investors.

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