
Dual Fiduciary Standard Headed for Vote By July 4

By Editor Test *Tue, Jun 1, 2010*

"Clients receiving investment advice don't distinguish between broker-dealers and investment advisors and neither should the law," a Treasury official said.

A Treasury Department official says the Obama administration will push for including a broad fiduciary standard provision in the final financial services bill, *National Underwriter* reported.

At a conference organized by the Financial Industry Regulatory Authority in Baltimore last week, Treasury Undersecretary Neal Wolin said the administration would fight attempts to weaken H.R. 4173, the Wall Street Consumer Reform and Consumer Protection Act, when talks to reconcile differing House and Senate versions of the legislation get under way June 15.

"We believe that retail brokers offering investment advice should be subject to the same fiduciary standard of care as investment advisors, and we will work to include that provision in the final bill.

The Securities and Exchange Commission now requires investment advisors to put customers' interests ahead of their own. Broker-dealers and life insurance distributors affiliated with broker-dealers must merely verify that the products they sell customers suit the needs of those customers.

So far, the House version of 4173 would provide two safe harbors for insurance agents and investment advisers. One says that receiving a commission doesn't automatically violate the standard. The other says an agent or advisor that captive agents wouldn't automatically violate the standard simply by selling one firm's products.

The Senate version, supported by the life insurance industry, underwriters, agents and brokers, and the National Association of Insurance and Financial Advisors (NAIFA) calls only for the SEC to study the issue and report back to Congress.

The House bill fiduciary standard provision and the Obama administration version are ambiguous, said NAIFA president Thomas Currey. An SEC study of the standard-of-care issue "would result in a fact-based approach to address real problems rather than by adopting a 'one-size fits all' amorphous fiduciary standard—the need for which is unsupported by any factual findings," he said.

Rep. Barney Frank, D-Mass., chairman of the House Financial Services Committee, said Monday in a memo that he wants the House to act on a reconciled bill June 29. That schedule would give the Senate 3 days to act before Congress is set to leave for its Independence Day break July 2.