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With Ryan elected Speaker, House selects new tax committee chairman.

House Ways and Means (Committee Chairman Paul Ryan (R-WI) was elected Speaker of the House on October 29. His election created an opening for Chairman of the Ways and Means Committee and the influential Steering Committee, which has the power to award committee gavels.

Rep. Kevin Brady (R-TX) was selected over Rep. Pat Tiberi (R-OH) to fill the position. Rep. Tom Rice (R-SC) was selected by the Steering Committee to fill the vacant spot on the Committee.

Congress passes two-year budget, which the President signs.

Early the morning of October 30, the Senate passed a budget agreement which will extend the debt limit through the end of the Obama presidency. The House passed the measure the night of October 28. The deal partially replaces defense and non-defense discretionary spending cuts (the “sequester”) and extends the debt limit suspension period through March 15, 2017.

The agreement will add $80 billion in additional government spending over two years but will not remove the threat of a government shutdown in December. Congress will still need to approve a FY16 spending bill at the revised spending caps before the current December 11 deadline. Of note, the budget deal does not contain a rider to defund the DOL’s fiduciary efforts. However, there will be another chance at such a rider as part of the December spending bill.
Despite opposition, DOL continues pressing its proposed fiduciary rule.

Bipartisan fiduciary legislative principles announced.

On November 5, Reps. Roe (R-TN), Neal (D-MA), Roskam (R-IL), Grisham (D-NM), Larson (D-CT), and Carter (R-GA) announced a series of legislative principles that will form the basis of a legislative solution to improve the Department of Labor’s (DOL) fiduciary proposal.

The Members said that they “are concerned that the Department of Labor’s current fiduciary proposal may have unintended consequences that could harm individuals and families saving for retirement…Our legislative proposal will ensure that all Americans have access to the financial advice they need to prepare for retirement, protect individuals from conflicted advice, and require advisors serve the best interests of retirement savers.”

The legislative principles are:

• Promoting families and individuals saving for a financially-secure retirement is an essential public policy good.
• Retirement advisors must serve in their clients’ best interests and must be required to do so.
• Retirement advisors must deliver clear, simple, and relevant disclosure of material conflicts, including compensation received and all investment fees to individuals saving for retirement.
• Public policies must protect access to investment advice and education for low- and middle-income workers and retirees.
• Public policies should never deny individuals the financial information they need to make informed decisions.
• Investor choice and consumer access to all investment services – such as proprietary products, commission-based sales, and guaranteed lifetime income – should be preserved in a way that does not pick winners and losers.
• Small business owners should have access to the financial advice and products they need to establish and maintain retirement plans and help workers save for retirement.

Representatives submit fiduciary bill.

The bill would provide a workable best interest standard to the DOL’s proposed fiduciary rule. Of note, the bill would transfer jurisdiction over the fiduciary issue from the DOL to the Treasury and directs Treasury to consult with the Securities and Exchange Commission (SEC) in creating rules for professional standard of care owed by brokers and investment advisors to IRA investors. Introduced as the Retirement Choice Protection Act of 2015 on November 4 by Reps. Kelly (R-PA) and Johnson (R-TX), the bill lacks bipartisan support and has almost no chance of becoming law.
House approves Wagner bill to prohibit DOL from moving forward without SEC.

Rep. Wagner’s (R-MO) bill, which would prohibit the Department of Labor (DOL) from moving forward with its fiduciary rule until the Securities and Exchange Commission (SEC) first issues its own regulation on investment advice, passed the House October 27 by a vote of 245-186. Three Democrats supported the bill.

The bill, which also passed the House last Congress is unlikely to be considered by the Senate and has been issued a veto threat by President Obama. As a result, there is virtually no chance this bill becomes law.

House Democrat letter threatens to slow the rule-making process

A group of 47 House Democrats, led by Rep. Polis (D-CO) sent a letter to DOL Secretary Perez on October 30 regarding the Department’s fiduciary proposal. The letter requests an additional 15-30 day comment period on the proposal before the rule is finalized.

The Oct. 30 letter is an example of Democrats bending over backward to help the financial industry without directly opposing the rule, which Mr. Obama strongly supports.

This latest letter is much more of a threat to the DOL rule than previous letters from Democrats. One that was signed by 96 House Democrats called for specific changes in the rule. In mid-September, a group of nine House Democrats, led by Rep. Moore (WI), circulated a letter among their colleagues to be sent to the DOL calling on the agency to refine its re-proposed definition of “fiduciary”. In that letter, Democratic House members called on the DOL to convene “a small working group of industry professionals and consumer advocates” to help finalize the rule.

The September letter asks for a “good faith implementation” period to allow those who work with retirement plans “to comply with the rule without the threat of lawsuits.” The lawmakers also said the rule should permit specific investment examples in investor-education materials, and should not restrict access to annuities.

On October 6, Reps. Kelly (R-PA) and Johnson (R-TX) and more than 100 of their Republican colleagues sent a letter to Department of Labor (DOL) Secretary Perez requesting “substantial changes” to the “shortcomings” of the Department’s fiduciary proposal. The Members did assert their support of a best interest standard, but expressed “serious reservations” about the details of the proposal and its possible effects on investment education and choice.

Nationwide Comment: While the full text of the solution has not yet been finalized, Nationwide and the industry have been working closely with the offices involved toward a final product that will satisfy the need for a best interest standard without the potentially harmful effects that the proposal as currently written would have on small businesses and low- and moderate-income savers. Nationwide will continue to work with the sponsors to gain support for the solution as it is developed.
Joint trades pen fiduciary op-ed.

October 5, Dirk Kempthorne [president & CEO of the American Council of Life Insurers (ACLI)], Kenneth Bentsen, president & CEO of Securities Industry and Financial Markets Association (SIFMA), Dale Brown, president & CEO of Financial Services Institute, Inc., Frank Keating, president and CEO of the American Bankers Association (ABA), and Tim Pawlenty, president & CEO, Financial Services Roundtable (FSR) published an op-ed in Roll Call urging the DOL to fix its fiduciary proposal.

“The department should restart the process by being clear about the proposed regulation’s substantial, adverse impact on savers and account for the extensive laws and processes that already punish people and firms for failing to act in their customer’s interest.” The column continues, "The department should take the time to make the necessary changes so that the proposal doesn’t create a retirement “advice gap” in America similar to what has happened in the United Kingdom.”

Nationwide Comment: Nationwide is a member of the ACLI, the FSR, and the ABA, and supports the heads of the joint trades speaking publicly about the changes needed to the rule.

FACI meeting focuses on retirement security.

The Federal Advisory Committee on Insurance (FACI) met November 4 and quickly turned its focus to retirement security issues. Discussion centered on whether there is a role for the Federal Insurance Office (FIO) to play on the issue, changes in the retirement arena, and ways that state and federal regulators can better collaborate on the issue. It was noted that individuals bear more of the risk and responsibility for their retirement security as a result of the shift from defined benefit plans to defined contribution plans and therefore education and guidance are especially important today. There was also discussion around the DOL’s proposed fiduciary rule, the impact that safe harbors have on employers' decision-making with respect to auto-escalation in retirement plans, and the increasing interest in state-run retirement plans.

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Sen. Warren releases report on annuity providers.

On October 27, Sen. Warren (D-MA) released the findings of her investigation into so-called agent “kickbacks” and “giveaways,” which she believes emphasizes the need for the DOL’s fiduciary rule.

The report, titled Villas, Castles, and Vacations: How Perks and Giveaways Create Conflicts of Interest in the Annuity Industry, found that 13 out of the 15 top annuity companies offer non-cash compensation either directly to agents, indirectly through third party gift payments, or both. The report also claims current disclosure requirements, rules, and regulations are inadequate to ensure customers are informed and protected from conflicts of interest.

Nationwide Comment: While Nationwide is not mentioned in the report, it was among the 15 leading annuity companies that received a letter from Senator Warren's office in April. The letter inquired about bonuses and awards offered by those insurers for sales of annuities. Nationwide's practice is that any program offered be compliant with current rules and regulations. Nationwide remains fully committed to providing Americans the products and services they need to meet their financial and retirement security needs.
References and source material used in this publication

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Brady wins Ways and Means Chairmanship

Obama signs budget deal
http://thehill.com/homenews/administration/258836-obama-signs-budget-deal

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Bipartisan House Members outline legislative principles to ensure retirement advisors protect clients’ best interests

Rep. Kelly & Chairman Johnson Introduce Retirement Choice Protection Act

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House passes bill to halt DOL’s Fiduciary Rule

Democrats torn between Obama, financial industry on DOL Fiduciary Rule
www.investmentnews.com/article/20151103/BLOG07/151109982

House Democrats letter to Secretary of Labor
www.investmentnews.com/assets/docs/CI102284113.PDF

90 Democrats Sign Letter Critical Of Fiduciary Rule

GOP lawmakers press DOL to reissue amended Fiduciary Rule

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Labor Department urged to heed constructive ideas to fix Fiduciary Proposal
www.rollcall.com/news/labor_department.urged_to.heed_constructive.ideas_to.fix.fiduciary.proposal-244042-1.html

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Senator Warren Releases Findings of Investigation into Conflicts of Interest in the Annuity Industry
www.warren.senate.gov/?p=press_release&id=989

Villas, Castles, and Vacations: How Perks and Giveaways Create Conflicts of Interest in the Annuity Industry

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Keeping watch

You can find the most recent information on issues affecting governmental defined contribution plans, plan sponsors and plan participants in the Employer page of our plan website, NRSforu.com. In addition, we report guidance on legislative and regulatory activity relevant to government sector plans through:

- *Plan Sponsor Alerts* – published as needed to announce breaking news.
- *457 Guidebook* – which has been revised to include information about the American Taxpayer Relief Act of 2012, Pension Protection Act of 2006; The Heroes Earnings Assistance and Relief Tax Act of 2008; Worker, Retiree & Employer Recovery Act of 2008; and The Small Business Jobs Act of 2010.

About this report

**BOB BEASLEY**, CRC, Communications Consultant, edits this report. Beasley brings 25 years of financial services communications experience to your plan. He helped prepare the four most recent editions of the *457 Guidebook*, edits countless newsletters and plan sponsor communications, and in 2001 authored “What you should know about the Economic Growth and Tax Relief Reconciliation Act of 2001.” He often voices Nationwide’s online presentations and telephone greetings.

Beasley has served on the Education and Communication Committee for the Plan Sponsor Council of America and as a member of the National Association of Government Defined Contribution Administrators.