

[Securities Regulation Daily Wrap Up, INVESTMENT ADVISERS—Senate votes to nullify DOL’s fiduciary rule, \(May 25, 2016\)](#)

Securities Regulation Daily Wrap Up

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By [John Filar Atwood](#)

The Senate voted yesterday to approve Joint Resolution 88, which disapproves and nullifies the Department of Labor’s rule that includes a new definition of “fiduciary” for professionals providing retirement investment advice. However, like the House of Representatives, the Senate failed to achieve the two-thirds majority required to override the President’s promised veto of the joint resolution.

The [Senate vote](#) of 56 to 41 fell largely along party lines, except that Democrats Joseph Donnelly (D-Ind), Heidi Heitkamp (D-ND) and Jon Tester (D-Mont) voted in favor of the resolution. The joint resolution passed the House without amendment in late April.

Administration’s opposition. After the House passed the joint resolution, the Obama Administration released a [statement](#) saying that if [Joint Resolution 88](#) were presented to the President, he would veto it. The Administration expressed its support for the DOL’s new rule, claiming that under the existing DOL regulations investment advisers did not always act in their clients’ best interest when giving retirement investment advice.

The Administration noted that some firms incentivized advisers to steer clients into products that have higher fees and lower returns. In the Administration’s opinion, the best-interest standard in the new rule will better enable investors to protect and grow their retirement savings.

Fiduciary rule. The DOL’s rule defines who is a fiduciary with respect to pension and retirement plans. Among other things, the new rule expands the instances in which brokers, investment advisers and other intermediaries are treated as fiduciaries. In these new circumstances, the investment professional will not be able to receive compensation that varies with a client’s investment choices and cannot recommend proprietary investment products without an exemption.

The new DOL rule is effective June 7, but will not be applicable until April 2017 to provide a transition period for affected industry participants.

LegislativeActivity: InvestmentAdvisers FiduciaryDuties