



Legislative and Regulatory Report

A monthly review of the latest information of importance to retirement plan sponsors

September 2023

Inside this issue

Lawmakers urge the SEC to abandon swing pricing/hard close	Below
Department of Labor sent latest version of the Fiduciary Rule to OMB for analysis on September 8	Below
SEC adopts amendments to the “Names Rule”	Below
Congress averts government shutdown	Page 2

Lawmakers urge the SEC to abandon swing pricing/hard close

On September 5, a bipartisan group of 38 House members, led by Financial Services Subcommittee Chair Ann Wagner (R-MO) and Ranking Member Brad Sherman (D-CA), [sent a letter](#) to SEC Chair Gary Gensler expressing concerns with the SEC’s swing pricing/hard close proposed rule for mutual funds. The letter cites several problems with the rulemaking, including the speculative nature of the problem identified by the SEC and the real-world harm the proposed rule would cause. The letter urges the SEC to withdraw the proposed rule.

Department of Labor sent latest version of the Fiduciary Rule to OMB for analysis on September 8

This is the first official step in the process of proposing the [new rule](#). The OMB (Office of Management and Budget) has up to 90 days to complete its review, but the turnaround is expected to be briefer than that. The full content of the proposed rule will not become public until it is returned to the DOL and put forward.

SEC adopts amendments to the “Names Rule”

On September 20, the Securities and Exchange Commission held an open meeting and approved amendments to the Investment Company Act “Names Rule.” This is the first of the Commission’s Environmental, Social and Governance items to be finalized, addressing “greenwashing” or other potentially misleading fund names. The [fact sheet](#) and [final rule](#) can be found on the SEC website. Fund groups with net assets of \$1 billion or more have 24 months to comply, while those with net assets less than \$1 billion have 30 months to comply.

Congress averts government shutdown

Surprising many, Congress narrowly averted an October 1 government shutdown by passing a 47-day continuing [resolution](#) to fund the government until November 17 — the Friday before Thanksgiving. The package was moved through suspension of House rules, which requires a two-thirds majority to clear the chamber rather than a simple majority, meaning that it required a substantial number of Democrats to pass. It passed on a 335-91 vote, with 90 Republicans and one Democrat voting against the measure, meaning that it cleared easily with a majority of both parties voting in favor.

References and source material used in this publication

“Sherman, Wagner Lead Bipartisan Colleagues in Urging SEC to Withdraw Proposal Harmful to Investors & Retirement Savers,” <https://sherman.house.gov/media-center/press-releases/sherman-wagner-lead-bipartisan-colleagues-in-urging-sec-to-withdraw> (Sept. 5, 2023).

“Pending EO 12866 Regulatory Review,” <https://www.reginfo.gov/public/do/eoDetails?rrid=334564> (Sept. 8, 2023).

“Final Rules: Amendments to the Fund ‘Names Rule,’ ” <https://www.sec.gov/files/33-11238-fact-sheet.pdf> (Sept. 20, 2023).

“Securities and Exchange Commission 17 CFR Parts 230, 232, 239, 270 and 274,” <https://www.sec.gov/files/rules/final/2023/33-11238.pdf> (Sept. 20, 2023).

“H.R.5860 – Continuing Appropriations Act, 2024 and Other Extensions Act,” <https://www.congress.gov/bill/118th-congress/house-bill/5860> (Sept. 30, 2023).

Keeping watch

You can find the most recent information on issues affecting governmental defined contribution plans, plan sponsors and plan participants on the Employer page of our plan website, NRSforu.com/plansponsor.



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