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Eight AGs ban together to sue SEC in attempt to block Reg BI

Published on: 9/11/2019 Content area: Investment Adviser

Comments?

If you were among those who predicted the **SEC's** fiduciary duty rulemaking would prompt a legal action, count yourself correct. Attorneys general from seven states and the District of Columbia have filed a [lawsuit](#) claiming the Commission bypassed congressional intent in approving [Reg Best Interest \(BD Watch, June 13, 2019\)](#).

"Despite its name, the Best Interest Rule is not in the best interest of consumer-investors, like retirees with IRA and 401(k) accounts. This rule provides cover for Wall Street to continue business as usual," said California Attorney General **Xavier Becerra**.

This "watered-down rule puts brokers first," said New York State AG **Letitia James**. The pair were joined by AGs in Connecticut, Delaware, Maine, New Mexico, Oregon and Washington, D.C.

The SEC didn't respond to an **RCW** request for comment.

Contrary to Dodd-Frank

The lawsuit, filed in New York, claims the Commission violated the federal *Administrative Procedure Act* in promulgating Reg BI. The legal action cites the Dodd-Frank law and the SEC's subsequent [913 study](#) as supporting a uniform fiduciary duty standard for IAs and B-Ds. The state AGs claim SEC staff called for a uniform standard in the 2011 study and the Commission ignored the advice.

The "failure to adopt a uniform standard and instead rely on a new and amorphous 'best interest' standard will result in continued investor confusion as to the duties applicable to broker-dealers and investment advisers," the lawsuit reads. The lawsuit was filed Sept. 9, one day before the rule took effect. It asks the court to vacate the new final rule and prevent the Commission from fully implementing Reg BI.

The state AGs contend Reg BI will harm investors and states: "Plaintiffs will lose revenue from the taxable portions of distributions from their residents' investment and retirement accounts that are worth less because of expensive conflicts of interest in investment advice; Plaintiffs will bear a greater financial burden to assist retirees and others whose savings are insufficient to meet their needs due to conflicted investment advice; and the regulation will harm Plaintiffs' strong quasi-sovereign interest in protecting the economic well-being of their residents."

Some state AGs had asked the SEC to reject Reg BI before the Commission approved the rule in a 3-1 vote in June.

The lawsuit comes as several states have moved toward adopting their own uniform fiduciary duty standard (**BD Watch, Aug. 8, 2019**).

The **Department of Labor's** attempt at a fiduciary duty rule also faced legal action, which ultimately helped to scuttle it (**IA Watch, March 20, 2018**).

The information contained herein was current as of the publication date.

Indexed by: SEC Fiduciary Duty |

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