RECENT STATE FIDUCIARY DUTY DEVELOPMENTS
APRIL 2018

State	Fiduciary Duty Development	Sources
Connecticut	• Connecticut HB 7161 "An Act Requiring Administrators of Certain Retirement Plans to Disclose conflicts of Interest" went into effect on October 1, 2017. • On January 1, 2019 any company that administers a retirement plan offered by a political subdivision of the state will have to disclose: "(1) The fee ratio and return, net of fees, for each investment under the retirement plan, and (2) the fees paid to any person who, for compensation, engages in the business of providing investment advice to participants in the retirement plan either directly or through publications or writings." • The law applies to any person that: (1) enters into a contract or agreement with a 403(b) plan not regulated under ERISA to provide services to the plan; and (2) reasonably expects to receive $1,000 or more in direct or indirect compensation for such services	National Tax Deferred Savings Association Article Text of HB 7161
Illinois	Illinois Legislature HB4753, which is just a short title with no text. The legislative record so far is: • Introduced in the Illinois House by Rep. Will Guzzardi on 2/13/18 • Read before the Illinois House also on 2/13/18 • Referred immediately to the Illinois House's Rules Committee, which is five individuals (three democrats and two republicans)	HB4753
Maryland	• The Maryland Senate in February 2018 initially drafted a bill that would extend its already existing fiduciary duty to broker-dealers, agents and financial advisors. • However, on March 19, 2018 The Maryland Senate approved a financial reform bill on March 19 that includes a provision instructing the Maryland Financial Consumer Protection Commission to study the outcome of federal efforts on fiduciary duty and then determine whether Maryland should enact its own fiduciary law. • Thus, it is uncertain whether Maryland will ultimately adopt a fiduciary duty for brokers.	Barrons article on Fiduciary Duty Extending to Brokers Maryland Financial Consumer Protection Act of 2018

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Massachusetts	• As of February 7, 2018, The Massachusetts Securities Division ("Division") was seeking preliminary comments on a proposed regulation that would require investment advisers who are registered with the Division to create a fee table for advisory clients • Specifically, an investment adviser would create one fee table, which includes all fees and services provided by the investment adviser. • The fee table would be updated annually and delivered annually in paper or electronic form to the investment adviser's current advisory clients.	Preliminary Request for Public Comment on Proposed Fee Table for State-Registered Investment Advisers
Nevada	• Effective July 1, 2017 • Provides that a financial planner "has the duty of a fiduciary toward a client." • "Financial planner" means a person who for compensation advises others upon the investment of money or upon provision for income to be needed in the future, or who holds himself or herself out as qualified to perform either of these functions • The law imposes a fiduciary duty on broker-dealers, sales representatives and investment advisers who for compensation advise other persons concerning the investment of money • The law does not include a definition of a fiduciary duty. • Implementation of the law is dependent on the adoption of regulations. • The law does not apply to sales of insurance, unless accompanied by investment advice.	Senate Bill No. 383 October 2, 2017 Notice of Regulation September 8, 2017 Notice of Regulation
New Jersey	• New Jersey proposed two related bills on January 9, 2018. • The first (Senate No. 735) would require financial advisors to disclose their fiduciary status to investors. Senate No. 735 delineates between "non-fiduciary investment advisors" and advisors subject to a fiduciary duty. Specifically, non-fiduciary investment advisors would have to advise clients—both orally and in writing—that they are not fiduciaries, and thus have no duty to act in the client's best interests. Any advisors subject to a fiduciary duty would have to let clients know they are subject to a fiduciary duty. Both types of advisors could face a $5,000 fine for failing to disclose this information. • The second (A208) requires disclosures from individuals who administer certain school retirement plans created in accordance with section 403(b) of the Internal Revenue Code. • Specifically A208 requires "person[s] administering annuity retirement plans for teachers to annually disclose fee ratio, return, and fees to each participant." These disclosures would need to be made both upon enrollment and annually after.	New Jersey Proposed Bill Text No. 208 Proposed Bill Text

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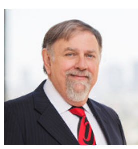
New York	• On December 27, 2017, the New York Department of Financial Services (NYDFS) proposed new consumer protections in life insurance sales that would adopt a "best interest" standard for sellers of life insurance and annuity products. • The Proposal would expand the applicability of the existing suitability regulation to include insurance producers, life insurance policies, and in-force policies/contracts. It applies to policies/contracts delivered or issued for delivery in New York • In recommended a transaction an insurer would need reasonable grounds for believing the recommendation is suitable for the consumer. • The Proposal does not change the existing suitability rule's exemptions except to expand them, along with the overall change in scope, to include life insurance policies used for any of the exempted purposes. • Thus, the regulation would continue to exempt policies/contracts used to fund qualified retirement plans, ERISA plans, and employer-sponsored IRAs. • The Proposal also would not apply to sales of mutual funds or other securities, unless related to an annuity or life insurance product	Drinker Biddle Blog Post on Proposed Regulation New York State Department of Financial Services Proposed Rule

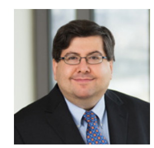
TEAM



Bruce L. Ashton
(310) 203-4048
Bruce.Ashton@dbr.com

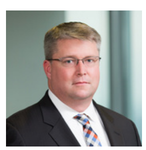
Jamie L. Helman
(973) 549-7016
Jamie.Helman@dbr.com

K. Elise Norcini
(312) 569-1294
Elise.Norcini@dbr.com

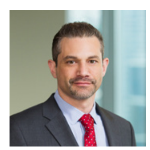


Matthew R. Silver
(215) 988-2591
Matthew.Silver@dbr.com

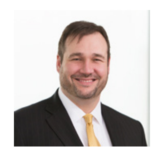
Bradford P. Campbell
(202) 230-5159
Bradford.Campbell@dbr.com



James G. Lundy
(312) 569-1120
James.Lundy@dbr.com



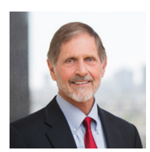
Richard J. Pearl
(312) 569-1344
Richard.Pearl@dbr.com



Joshua J. Waldbeser
(312) 569-1317
Joshua.Waldbeser@dbr.com

Sandra Grannum
(973) 549-7015
Sandra.Grannum@dbr.com

Joan M. Neri
(973) 549-7393
Joan.Neri@dbr.com



Fred Reish
(310) 203-4047
Fred.Reish@dbr.com

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