

Bulletin www.incentivefederation.org

June 2017

**“Fiduciary Rule” Revisited by Administration and Congress – Impact on Incentive Travel Programs Unclear**

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| **Who does the Incentive Federation represent?**  The Incentive Federation is the only organization whose membership and leadership includes all of the industry’s national trade associations, as well as individual companies. It is under The Incentive Federation umbrella that the collective interests of the Incentive Marketing Association (IMA), the Promotional Products Association International (PPAI), The Incentive Research Foundation (IRF), and Society for Incentive Travel Excellence (SITE) are discussed, nurtured and advanced. |
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| **IFI Mission Statement**  **The Incentive Federation is dedicated to promote, protect and research the incentive field, encompassing recognition, promotional products and related**    **promotions.** |

promotions.

The Department of Labor’s (DOL) “Fiduciary Rule” issued in 2016, and scheduled to be fully implemented by January 2018, is under further scrutiny and legislative challenges. The first stages of the regulation became effective June 9, 2017, even though the Administration has ordered the DOL to review the rule and recommend revisions. IFI’s analysis of the rule suggests that there are significant implications for companies offering incentive travel and awards programs to the financial marketplace.

Until there is greater clarity with respect to the new fiduciary rule, some financial institutions may be leery of using incentive or award programs to motivate and/or compensate their employees, while others are restructuring their programs to place a greater emphasis on general recognition and education, for example, instead of providing sales-based incentives.

While not readily apparent in the wording of the new fiduciary rule, which is an amendment to the Employee Retirement Income Security Act, part of the rule does suggest that incentive trips and other forms of rewards or incentives may no longer be acceptable if they present conflicts of interest. See Senator Elizabeth Warren’s October 2015 report, [“Villas, Castles and Vacations: How Perks and Giveaways Create Conflicts of Interest in the Annuity Industry,”](https://www.warren.senate.gov/files/documents/2015-10-27_Senator_Warren_Report_on_Annuity_Industry.pdf) that was an impetus for the new rule. Note that incentive travel was not the only form of sales incentive targeted.

In early June a round of legislation was introduced to replace the DOL’s fiduciary standard for employer-sponsored retirement savings plans with a new one agreed to by Congress. The [Affordable Retirement Advice for Savers Act](https://waysandmeans.house.gov/wp-content/uploads/2017/06/HR-2823.pdf) (H.R. 2823) would repeal the DOL rule and establish a statutory definition of “investment advice” that would, among other things, set standards for providing information about investment options for employer-sponsored defined contribution savings plans, IRAs and HSAs.

In the Senate the [Affordable Retirement Advice Protection Act](https://www.isakson.senate.gov/public/_cache/files/748b5f84-6682-4945-ad8f-60f9b31d06ed/attachment%201.pdf) (S.1321) is similar to the House bill in that it would establish a new paradigm for investment advice for DC plans, but it does not expressly repeal the DOL rule nor create a fiduciary duty for IRAs and HSAs. Additionally, the House has passed legislation  – the Financial CHOICE Act ([H.R. 10](https://www.congress.gov/bill/115th-congress/house-bill/10/text#toc-H0FE47823607049B4A2EA0B8FF96EFF81), Sec. 841) – that includes a provision to assign the responsibility for defining the guardrails for investment and other advice applicable to employer-sponsored retirement savings plans, including 401(k) plans and other defined contribution plans, to the Securities and Exchange Commission rather than the DOL. Nothing that IFI has seen in the proposed legislation suggests that Congress aims to address the contention that sales incentives present a conflict of interest for financial services providers.

For the time being, how any of the proposed changes might affect or give relief to the incentive travel industry remains unclear. For IFI’s Legal Counsel George Delta’s full explanation of the new rule's impact, click [here](http://www.incentivefederation.org/wp-content/uploads/2017/03/IF-Wash-Update-03.15.17.pdf). The IFI will continue to monitor the proposed legislation and determine if there is any opportunity to positively influence the impact on incentive travel programs sponsored by financial companies.

**New Federation Members**

The Incentive Federation welcomes the following new members who have joined in 2017.

**Advertising Specialty Institute** - Rita Ugianskis-Fishman

**Castelli North America** – Fran Ford

**Citizen Watch Company of America** – Richard Low

**Fujifilm North America** – Joe Hafenscher

**Great Lakes Incentive Group** – Mark Oldenburg

**Indigo Watch Company** – Dean Resnekov

**Point Recognition** – Tim Geary

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**Questions, Concerns, Requests**

Please contact the Federation if you have any questions or learn of any issues you believe the Federation should be aware of. Since the Federation’s founding in 1984, its effectiveness in representing and protecting the industry with one voice has only been made possible through the financial support and active participation of industry organizations and companies.

Contact: Steve Slagle, IFI Managing Director, at [steves3309@gmail.com](mailto:steves3309@gmail.com) or 864-710-6739.