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Congress eyes compromise in 401(k) indie-advice rule

Dropping Bush administration plan will help define who exactly can provide advice to retirement plans

By **Sara Hansard**
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Now that the Department of Labor is scrapping a rule proposal that would have allowed brokers affiliated with financial-services firms to provide advice to 401(k) participants, Congress will move forward with legislation that would require that such advice be given by independent advisers, according to a key congressman.

The rule proposal was one of several Labor regulations put forth by the Bush administration during its final days.

Labor Secretary Hilda Solis “will work with Congress to find ways to further develop the existing market of qualified independent advice,” said Rep. Robert Andrews, D-N.J., chairman of the House Education and Labor Committee's Health, Employment, Labor and Pensions Subcommittee.

His comments came last week after Assistant Labor Secretary Phyllis Borzi, head of the Employee Benefits Security Administration, told a conference of 401(k) administrators that new regulations will be issued for investment advice to participants in the $2.3 trillion 401(k) market.

She gave no timetable for issuing a new proposal.

In July, the House Education and Labor Committee approved the 401(k) Fair Disclosure and Pension Security Act of 2009.

The bill, which was sponsored by Mr. Andrews and committee chairman George Miller, D-Calif., prohibits advisers affiliated with financial-services firms from offering advice if their compensation rises and falls with specific product recommendations.

The Pension Protection Act of 2006 would have to be changed in order for the DOL to issue the kind of investment advice rules Congress would support, Mr. Andrews indicated.

“It will take statutory and regulatory change to create the goal of qualified-independent-investment advice affordable to every investor,” he said.

For the full version of this story, please see the Sept. 21 issue of *InvestmentNews*