

Supreme Court Decision in 401(k) Case May Have Profound Effect on Fiduciary Debate, *Investment News*

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If the kitchen wasn't full before, it is now. The U.S. Supreme Court just stirred up the fiduciary standard debate with its recent decision in *Tibble v. Edison*. For years, the Department of Labor and the Securities and Exchange Commission have been cooking up rules to provide a uniform fiduciary standard for those providing personalized investment advice regarding securities to retail investors. While the DOL's focus is limited to accounts covered by ERISA, the SEC has been focused on the study of a potential uniform fiduciary standard for advisers rendering personalized investment advice to any retail customers. With its decision in *Tibble v. Edison*, the Supreme Court may have sent the DOL and the SEC back to the test kitchen for more seasoning.

At issue in *Tibble v. Edison* was whether an ERISA fiduciary has an ongoing duty to manage plan assets for statute of limitations purposes. The Court's ruling, while in line with the recent push toward a higher standard for those rendering investment advice to retail customers, appears to be at odds with the DOL's newly proposed rule expanding the definition of "fiduciary" under ERISA. As many commenters have been quick to point out, the DOL's inclusion of IRA accounts as subject to its proposed rule creates fiduciary duties for many financial advisers not previously held to such a standard, specifically broker-dealers with respect to nondiscretionary IRAs.