GOVERNMENT & POLITICS

Key House Democrat signals heightened regulatory scrutiny at DOL following big election victories

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Rep. Bobby Scott, a Democrat from Virginia and ranking member of the House Workforce and Education Committee. (Haiyun Jiang/Bloomberg)



By **Brian Croce**

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Hours after Democrats overwhelmingly won control of Congress Nov. 3, a key House Democrat is laying the groundwork for investigations and heightened regulatory scrutiny by telling federal regulators, including the Department of Labor, to preserve pertinent records.

Rep. Bobby Scott, D-Va., who's in line to lead the Education and Workforce Committee come January, sent letters Nov. 4 to heads of 10 federal departments and agencies under the committee's jurisdiction, reminding them of their obligation under the Federal Records Act of 1950 to preserve all records that may be in the public interest.

"As the top Democrat on the Committee, I intend to hold this Administration accountable by calling them to answer for their actions," Scott said in a statement. "I will use Congress' oversight tools and leave no stone unturned as I fight for policies that actually deliver for the American public."

The DOL did not immediately respond to a request for comment.

Democrats will have comfortable majorities in both the House and Senate for the next two years, though the final count is still pending as some races have yet to be called. Prior to the election, industry sources told *Pensions & Investments* that Democrat-led committees with jurisdiction over the DOL and Securities and Exchange Commission are likely to investigate rulemakings and procedures via hearings and document requests.

Following the election results, Kevin Walsh, principal and fiduciary practice leader at Groom Law Group, made a similar point.

"When we see one party control a chamber, and here we have a party that controls both chambers, and another party control the White House, oversight and investigations tends to be a high priority," Walsh said.

However, President Donald Trump is still in the White House, and the Republican leaders helming the DOL and SEC remain in place and will continue executing on their agendas.

Walsh said he doesn't expect the election result to materially change the agenda at the DOL's Employee Benefits Security Administration, including its investment selection proposal from March aimed at broadening access to private markets in 401(k) plans.

But newly empowered Democrats could further scrutinize the proposal, which sources expect to be finalized before the new Congress takes office in January.

Scott, Sen. Bernie Sanders, I-Vt., and Sen. Elizabeth Warren, D-Mass., sent a joint comment letter to the DOL in June opposing the proposal over concerns it would "strip long-held investor protections from retirement savers and encourage the use of more risky, complex, and expensive investments."

Sanders is in line to lead the Senate Health, Education, Labor, and Pensions Committee and Warren is in line to chair the Senate Banking Committee next Congress.

Additionally, Scott, Sanders and Rep. Jamie Raskin, D-Md., who will likely chair the House Judiciary Committee come January, called for an investigation in September into roughly 12,000 comments the DOL received on its investment selection proposal that were allegedly manufactured in support of the initiative.

Scott in his Nov. 4 letter to Labor Secretary Keith Sonderling requested "an assurance, in writing," by Nov. 18, that records, documents, data, or information have not been and will not be concealed, modified, removed, transferred, destroyed, or otherwise rendered inaccessible.