# LMR

BUILDING THE 10%

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# ABOUT LARA & MURPHY

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***Only with the spirit can a minority overcome the majority.***
***—Mises***

Tyranny is difficult to establish in the beginning. This we have learned from great thinkers like Mises, Bastiat, Etienne De La Boetie and others. They tell us that most people, if they are given a choice, would much rather be free than a slave. The idea that it would be better to be ordered around by a single individual really makes no sense to a sound thinking person.

Yet we do have a historical example of a deliberate choice to be ruled in the Israelites. In their desire to be like other nations the Israelites chose (Saul) a king. But apart from that one example, most thinkers on this subject agree that tyranny can only be established by either *conquest* or by *deception.*

La Boetie says that conquest can be either had by foreign armies seizing power or by an internal illegal seizure of power. Deception occurs in cases where the people, during wartime emergencies, select a dictator, who in time brings the public into submission. The public initially submits due to force.

"*But* those that come after them obey without regret and perform under the yoke and then nourished and reared in slavery are content, without further effort to live in the native circumstance, unaware of any other state or right, and considering as quite natural the condition into which they are born.

*Therefore,* those who are born enslaved should be pitied and forgiven since they have not seen even the shadow of liberty, and being quite unaware of it, cannot perceive the evil endured through their own slavery."

Recognizing these ancient truths to be a part of our own reality we must work all the more toward the attainment of the ten percent goal. We do this by helping one individual at a time see the power of IBC. In doing so we can help others catch a glimpse of freedom's glory in our objective. For it is only in reaching that ten percent goal that the minority becomes the necessary majority we seek.

For this reason we must aim high and with purpose. We must think high and with total focus. Concentrating always on the solution—not the problem. Yes, there will be obstacles, but we must see them as stepping-stones to victory. It's all in the state of mind—where every positive thought and every positive action propels us toward the mark. Thank you for all you do in being a part of this great movement.

Yours truly
Carlos and Bob

"It is the masses that determine the course of history, but its initial movement must start with the individual."
— How Privatized Banking *Really* Works


### Japan Shedding Treasuries

## MOVE OVER CHINA, JAPAN UNLOADS 7% OF TREASURY HOLDINGS IN A YEAR

While researching the foreign distribution of ownership of U.S. Treasury holdings for Episode 11 of the Lara-Murphy Show (archives at: https://lara-murphy.com/podcast/), we came across an alarming fact: Even though people have been lamenting the drop in *Chinese* holdings of Treasuries in the last 12 months, the real story has been Japan. From March 2015 to February 2016 (the latest data the government has published), Japan reduced its holdings by $92 billion, a fall of 7 percent. Over that same period, the yen strengthened from about 120 to the dollar up to (in February 2016) 112, and more recently it is stronger still—trading at about 109 yen to the USD as of mid-April. On the face of it, this is surprising, because the Bank of Japan is officially wringing its hands over the inability to get price inflation up to 2 percent.

It's always risky to try to peer into the minds of central bankers, but it appears that the Japanese authorities are deliberately undoing the 2014 wave of "Abenomics," which (among other things) had caused the yen to depreciate sharply against the dollar. Whether the recent strengthening of the yen is a bug or a feature, it seems clear that major central banks are backing away from their massive holdings of U.S. Treasuries. We've said it before with regard to China, and we'll repeat it here for Japan: Several years ago, when critics warned that foreigners wouldn't have an infinite appetite for U.S. government debt, the "reasonable" analysts laughed at them, and assured everyone that it would be foolish for foreign institutions to dump their Treasuries and thus hurt their own asset. Well, the "impossible" continues to unfold before our eyes.

### Unions Know Minimum Wage Kills Jobs

## CALIFORNIA UNIONS SEEK EXEMPTION FROM $15 MINIMUM WAGE

Union bosses have a reputation for being tough guys, and out in California they must be—because only a tough guy could have the courage to advocate for the passage of a $15 minimum wage, and then insist that union members be exempt from it! An April 9 LA Times article explains:

# PULSE ON THE MARKET

*"San Francisco, San Jose, Oakland and Santa Monica have all adopted union waivers in their most recent minimum wage laws. L.A. city officials are expected to indicate whether they will include such an exemption in their own $15 minimum wage at a hearing next week.*

*Critics see such provisions as a cynical collusion between politicians and big-city labor interests. By making unions the "low-cost option" for businesses seeking to avoid paying better wages, they assert, the exemptions are designed to drive up union membership — and revenue from dues — at the expense of workers."*

Even when we let the union reps explain themselves, it doesn't look good. According to people who support the policy of exempting union members from the new city-level minimum wage ordinances, the exemptions' *"central purpose is to offer union members flexibility to negotiate a superior package of employee benefits in which lower hourly wages can be offset by other perks, such as health insurance."*

Well, sure, but that's one of the reasons free-market economists favor exemptions for *all* workers: It gives them more flexibility when choosing jobs with different mixes of attributes. It's refreshing that the CA union leaders recognize that businesses can't arbitrarily pay higher wages without cutting back on other benefits, but it's too bad they won't extend that insight to workers outside of their own.

TALKING 'BOUT JACKSON

## HARRIET TUBMAN TO REPLACE ANDREW JACKSON ON FRONT OF $20 BILL

It is ironic that U.S. government officials announced their celebration of abolitionist Harriet Tubman during April, the month when Americans are reminded of how much of the fruits of their labor is siphoned off by the IRS. We were glad to see that many commentators looked beyond the bread and circuses spectacle to note that Jackson never belonged on government fiat money in the first place. As we explain in our book *How Privatized Banking **Really** Works,* Jackson not only paid off the


federal debt but he also won reelection on a campaign to end the Second Bank of the United States—which was the precursor to the Fed. Jackson would hold up gold coins at campaign rallies and tell the American people that the precious metal was *real*, honest money, not like the paper notes used by the bankers on Wall Street.

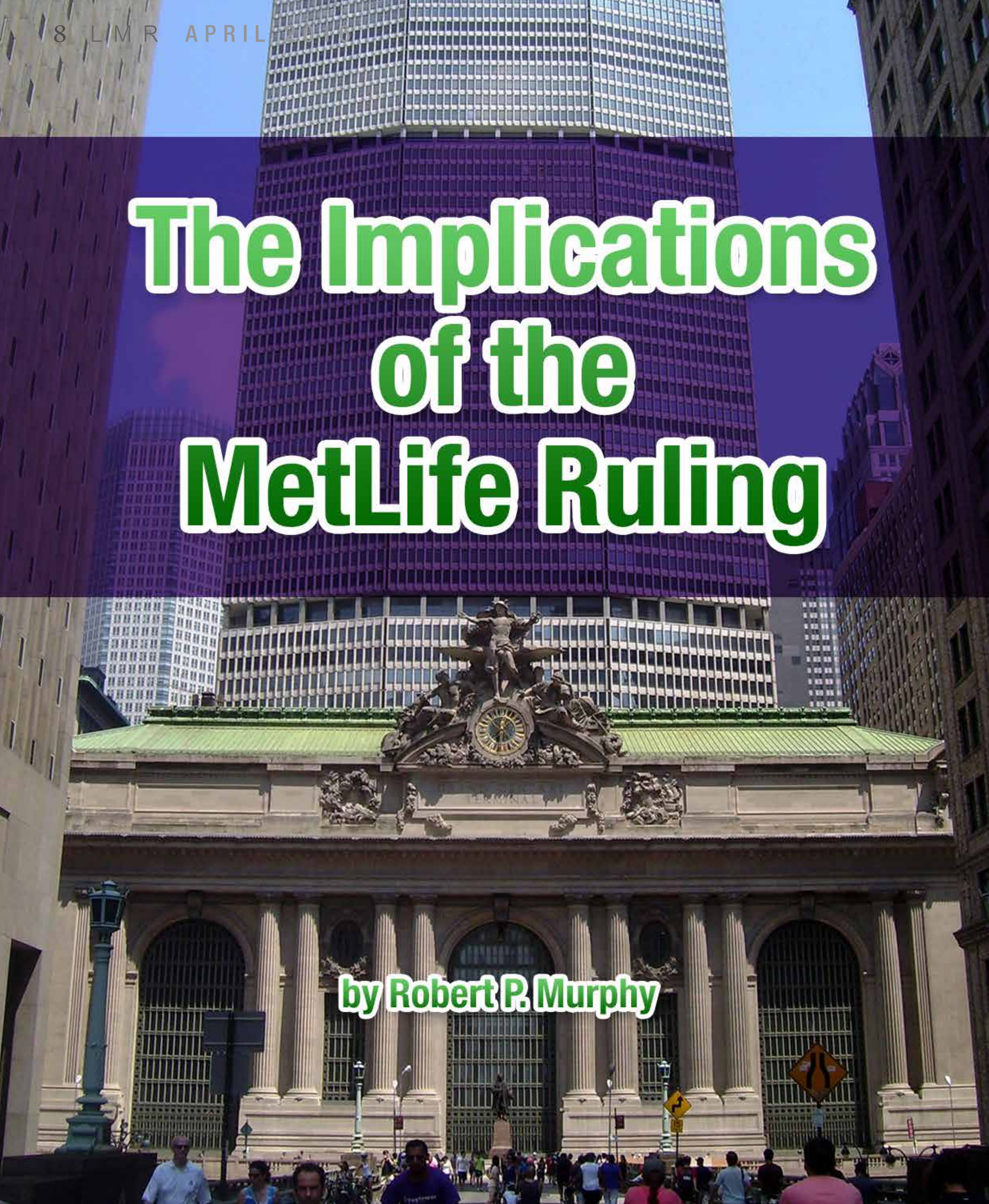
To be sure, Andrew Jackson bore enormous responsibility for the thousands of deaths that occurred during the Indian removal ("Trail of Tears") under his administration (and his successor, Martin van Buren). If Americans want to say such a man cannot be on the front of their unbacked paper money, fair enough. Our modest point is that Jackson wouldn't have wanted his face on it, either.

### UnitedHealthcare Won't Keep Its Plans

## LARGEST HEALTH INSURER PULLING OUT OF MOST STATE ACA EXCHANGES

In yet another blow to ObamaCare, the Washington Post reports: *"UnitedHealth Group, the nation's largest health insurer, said…that in 2017 it will exit most of the 34 states where it offers plans on the Affordable Care Act insurance exchanges."*

With people's access to health care at stake, this is hardly an occasion for gloating. But it is frustrating to point out that *free-market economists predicted these results.* To understand what went wrong with U.S. health care and health insurance, and to see why ObamaCare is only going to further poison the government/private hybrid we now have, check out the book written by one of us (Murphy) with Doug McGuff: *The Primal Prescription.* It diagnoses the problem but also offers solutions to individual households for seceding from the crumbling medical establishment; in some respects it is analogous to the IBC approach to personal finances.



# The Implications of the MetLife Ruling

by Robert P. Murphy

**On March 30, U.S. District Judge** Rosemary Collyer reversed the ruling by the federal Financial Stability Oversight Council (FSOC) that the insurance giant MetLife was a "systemically important financial institution" (SIFI)—or what is called "too big to fail" in common parlance. Regulators gave MetLife this designation back in 2014, and last year MetLife sued to remove it, as it triggers extra capital requirements.

In this article I'll explain the context of the ruling, and then discuss implications for the future of the financial sector. Taken in isolation, Judge Collyer's ruling is not only sensible legally but also throws a monkey wrench in the federal government's efforts to expand its control over financial institutions. Unfortunately, in the grand scheme this episode will probably amount to a temporary setback for the regulatory Leviathan State.

**Judge Collyer's ruling is not only sensible legally but also throws a monkey wrench in the federal government's efforts to expand its control.**

## The Background

In July 2010 President Obama signed the Dodd-Frank Act into law. This was a major overhaul of financial regulation, passed as a response to the "inadequate" regulation that ostensibly helped produce the financial crisis in 2008.

Title I of the Act created the Financial Stability Oversight Council (FSOC). The FSOC has the ability to designate even non-bank institutions as "systemically important financial institutions" (SIFIs), a designation that triggers more intensive scrutiny and regulatory requirements. The rationale is that if a company is "too big to fail" in the sense that it would cause havoc on the financial sector by going down, then the government should try to prevent that on the front end by insisting on more stringent capital requirements and so forth.

Part of the argument here is that traditional financial regulation focused on depository institutions, while modern finance involves "shadow banking," which falls outside the conventional regulations installed in the 1930s. Those who want more intensive regulation argue that these "shadow banks" borrow short and lend long—just like commercial banks under a fractional reserve system—and therefore are vulnerable to "bank runs" just like Jimmy Stewart's textbook operation in *It's a Wonderful Life.* For example, consider the analysis from a Bloomberg article in October 2008, a few weeks after Lehman's collapse:

> It turns out that Lehman, like other big dealers, was running a perfectly legal but highly risky game moving money from firm to firm. It used the collateral from one trading partner to fund more deals with other firms. The same $100 million collected in one deal can be used for many other transactions. "Firms basically can use [the money] as their own collateral for anything they want," says Kenneth Kettering, a former derivatives lawyer and currently a professor at New York Law School.[1]

To be sure, I'm not *endorsing* the idea that we need more government intervention to plug the regulatory holes in "shadow banking," but I want to make sure readers understand the argument. To repeat, the events leading up to the crisis in September 2008 did not involve a typical bank run.

Rather, what happened is that the sudden uncertainty about the value of mortgage-backed securities (MBS) and more exotic derivatives led to collateral calls against the large issuers of credit default swaps (CDS) on these instruments. This is what happened to AIG. It was not the fact that AIG's computer models had incorrectly assessed the underlying risk of mortgage defaults that put them in trouble. Even though the mort-

**I'm not endorsing the idea that we need more government intervention to plug the regulatory holes in "shadow banking,"**

gage derivatives were much riskier than the computer models had estimated, that wasn't what sunk AIG in September 2008.

Instead, it was that AIG was not able to put up the (contractually obligated) collateral that their counterparties (the ones holding the AIG-issued credit default swaps) demanded as things began to deteriorate. This set in motion a domino effect where large institutions had to sell assets to raise funds,

**It's worth stressing that AIG's core life insurance business had nothing to do with its demise.**

which in turn depressed the value of those assets and ruined what previously had been healthy balance sheets.[2]

It's worth stressing that AIG's core life insurance business had *nothing* to do with its demise. It was the completely unrelated dabbling in derivatives by its investment component that got the parent company in trouble.

However, from the point of view of those seeking more government intervention, this fact only reinforces their point: They are arguing that traditional regulation (at both the federal and state levels) of commercial banking and life insurance have been working to protect depositors and policyholders, but that the crisis in 2008 shows that there were still gaping holes in the patchwork of oversight. The Dodd-Frank Act of 2010 was supposed to correct this deficiency, by giving the FSOC tools to impose stricter limits on even non-bank institutions that nonetheless posed a threat to the rest of the financial sector.

In this context, then, in 2014 the FSOC

deemed MetLife a SIFI. Last year the insurance giant filed suit to overturn the designation, and now the judge agreed with MetLife. The government has announced that it is appealing the ruling.[3]

## The Judge's Ruling

Judge Collyer's actual ruling is pretty comprehensible for those who are curious; we provide a link in the endnotes.[4] Collyer said that FSOC had two criteria by which it could establish that a particular non-bank institution were systemically important, and yet the government had not even bothered trying to meet either criterion. Furthermore, Collyer wrote that the government had not done even a cursory cost/benefit calculation—which was its obligation per *Michigan vs. EPA* (2015)—and thus there was no way to know that the extra costs of complying with the additional regulation would be justified in terms of added safety for the financial sector.

**Judge Collyer's actual ruling is pretty comprehensible for those who are curious.**

For its part, MetLife had arranged for outside analysts to study the potential impact of its failure on the rest of the financial system. In other words, MetLife had presented evidence showing that it was not "too big to fail." Since the government hadn't even bothered to rebut this claim with its own arguments and/or analysis, Collyer said that FSOC's designation of MetLife as a SIFI was "arbitrary and capricious."

To be sure, models of economic impacts are notoriously dependent on the underlying assumptions; no doubt a sufficiently motivated economist could come up with a study showing that the failure of MetLife would lead to starvation for half the human race. Nonetheless, to give a flavor of the dispute, here we quote from Peter Wallison's comprehensive July 2015 *Wall Street Journal* article on the case:

> FSOC regulations outline two principal ways that the distress or failure of a firm could cause instability in the financial system as a whole. One is by causing losses to others financially exposed to the failing firm, say by holding its debt securities. This is called the expo-

sure channel. The other is by a "fire sale" liquidation of assets that drives down asset prices and thus weakens other firms holding the same assets. It's called the liquidation channel.

In January [2015], MetLife, the nation's largest insurer, challenged its designation as a SIFI in federal court…

In addressing the exposure channel, MetLife submitted evidence showing that even its total collapse would not pose a threat to other large firms. **For example, in the unlikely event that the largest U.S. banks were to lose 100% of their exposure to MetLife, their losses would not exceed 2% of their capital…**

As for the liquidation channel, a study done for MetLife by Oliver Wyman showed that **even in the implausible event that all policyholders were to surrender their policies and ask for return of their cash values—and all other MetLife liabilities that could accelerate would immediately become due—the firm could still liquidate enough assets to cover its liabilities "without causing price impacts that would substantially disrupt financial markets."** The FSOC produced no data to contradict this evidence. [Wallison, bold added.][5]

**MetLife had arranged for outside analysts to study the potential impact of its failure on the rest of the financial system.**

Collyer thus ruled that MetLife had made its point; even if we accept the mission of the FSOC at face value, it had not shown that MetLife satisfied its own criteria for a company being too big to fail.

### The "Lara-Murphy" Take

My general position on these issues is the same that we've been giving you here at the *Lara-Murphy Report*—and now at our website, www.Lara-Murphy.com—for years. For example, check out Carlos' May 2014 article, "Bank Deposits Are RISKY," his June 2014 article, "The Rise of Shadow Banks," and his February 2015 article, "From Bail-Outs to Bail-Ins."

**MetLife had arranged for outside analysts to study the potential impact of its failure on the rest of the financial system.**

Unlike commercial and investment banking in the modern world, which are inherently *illiquid* because they rely on borrowing short and lending long, life insurance is actually more secure the bigger the institution. Think of it this way: If a company were to sell life insurance policies to just a dozen people, that wouldn't be insurance, it would be *gambling*. For insurance to work, the company needs to issue policies on large pools of individuals, ideally spread out over huge geographical areas (to reduce the impact of a localized disaster). I therefore agree with Collyer's ruling; MetLife should *not* be considered "too big to fail" in the context of modern regulation.

Beyond the narrow issue of MetLife, however, is the broader problem with our interventionist State: Right now we have the worst of both worlds. We have a federal government and Federal Reserve that create and nurture giant cartels among politically connected financial institutions. Certain private interests are fueled upward into a boom, and then rescued when things blow up.

It is understandable that political officials claim that *given* the existence of deposit insurance and a central bank unwilling to let major institutions go down, that there must be prudential regulations put in place on the

front end, to keep these private actors—driving with training wheels, as it were—from getting too greedy and reckless.

However, we have seen that in practice, regulators are always fighting the last war. Remember the accounting scandals involved with Enron, Tyco, and WorldCom? The Sarbanes-Oxley Act of 2002 was passed to (allegedly) clean up Wall Street. Well, that didn't work, did it?

As Tom Woods likes to point out, it didn't matter how much power regulators had in 2004-2006, because the major regulators didn't realize there was a housing bubble in full swing. Yes, it's always obvious *after the fact* what regulators could have done differently, but by the same token investors wouldn't have been caught with their pants down if they'd had a crystal ball, either.

No, the only real solution to these waves of corporate scandals and recklessness is to bring genuine market forces back to bear. Remove the implicit and explicit safety nets from the Fed and federal government, so that the profit *and loss* system can function.

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## Conclusion

The MetLife ruling is a victory, but its success will probably be short-lived. The government is appealing the ruling, and may be able to produce scenarios whereby a failing MetLife could cause unacceptable harm, thus "justifying" the SIFI designation.

In any event, the broader problem is the continued expansion of federal intervention into every nook and cranny of the financial sector. Thus far life insurance has largely remained subject to regulation at the state level, but the MetLife case shows one avenue by which the feds are trying to get their foot in the door.

◆◆◆

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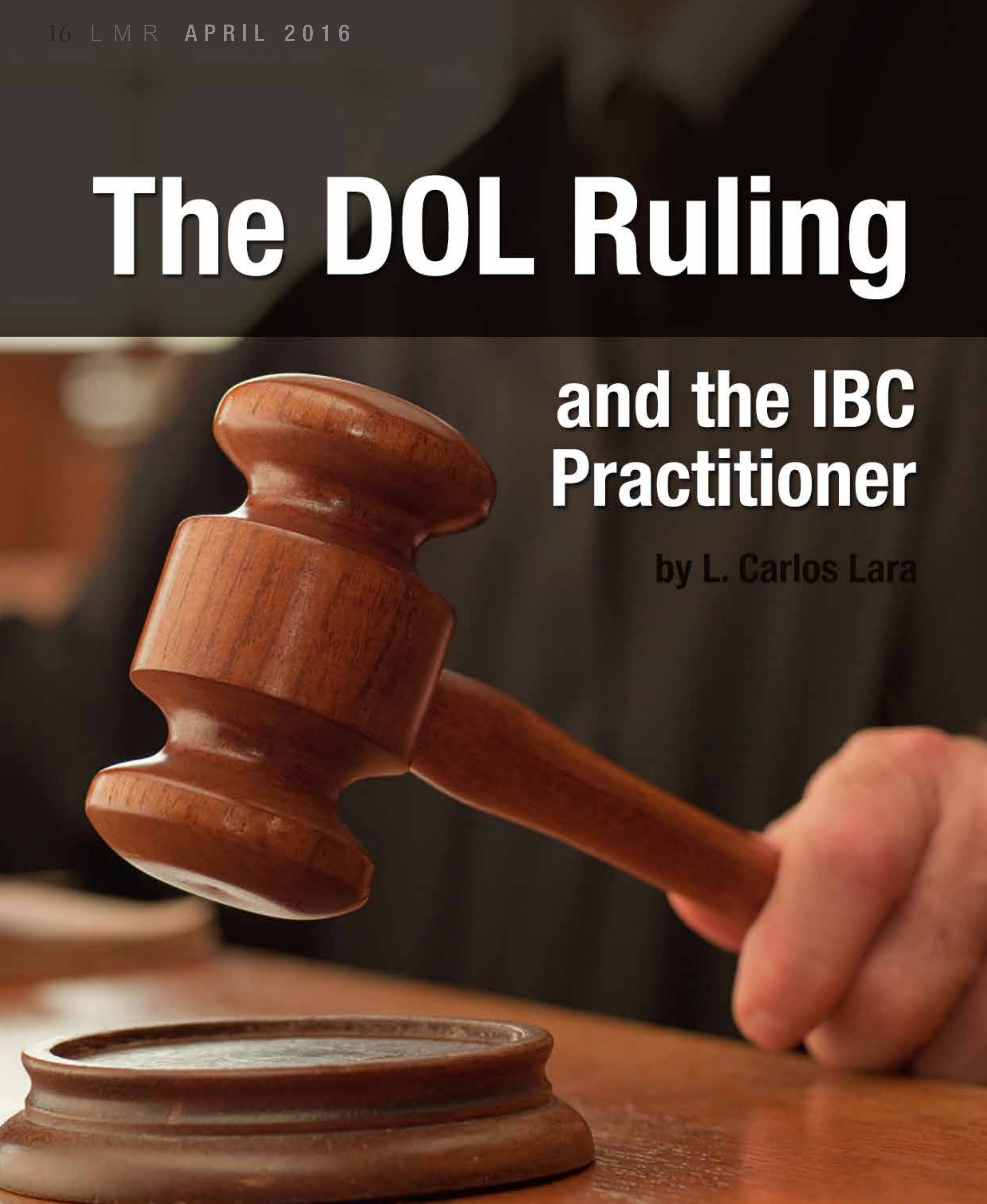
# The DOL Ruling

## and the IBC Practitioner

by L. Carlos Lara



**Just about every financial professional** in the country is by now familiar with the U.S. Department of Labor's (DOL) Fiduciary Ruling. A change to the definition of fiduciary under ERISA, which after much wringing of hands and gnashing of teeth for the greater part of seven years, was finally officially released three weeks ago on April 6, 2016.

Full compliance with the new requirements begins one year from today—April 2017, with the special exemptions to the ruling, the "Best Interest Contract Exemption," and the "Principal Transactions Exemption," having a "phased implementation approach" through January 2018.

Similar to the Dodd-Frank Act, which purportedly concerns itself with investor protection, this new *"fiduciary ruling"* is the Department of Labor's multi-year regulatory project that has also come in the wake of the 2008 financial crisis. Hundreds of individual meetings with interested stakeholders, including two public hearings, involving consumer groups, plan sponsors, financial services companies, academics, trade associations and others, both in support of and opposition to the proposals have been held in order to finalize the framework for the law.

According to the Department of Labor, its main objective is to specifically address the problems with fiduciaries and conflicts of interest in the giving of investment advice in the area of tax preferred retirement savings for workers and their families.

**This new "fiduciary ruling" is the Department of Labor's multi-year regulatory project that has also come in the wake of the 2008 financial crisis.**

A fiduciary, as most of us understand, is a person or entity whose duty it is to act in the best interest of the party whose assets they are managing, typically in relationships

**Its main objective is to specifically address the problems with fiduciaries and conflicts of interest in the giving of investment advice in the area of tax preferred retirement savings for workers.**

**Its control of the way a financial advisor must now market himself or herself in the future when communicating with members of the general public about retirement savings.**

between a trustee and a beneficiary. However, in the real world, fiduciary duties actually appear in a wide variety of common business relationships and communications. Nevertheless, this regulation aims at not only defining, but also at pinpointing who is a *fiduciary investment advisor.* In this sense the law is sweeping and far-reaching in that the majority of financial professionals, more often than not, directly or indirectly, cater to the retirement savings industry in some way or another. Due to this fact, the DOL, with the passing of this new fiduciary definition, has the authority to scrutinize the actual communications advisors are having with individuals or entities in anyway connected to the tax preferred retirement savings arena that lead to sales transactions and the payment of fees or commissions.

*"Many investment professionals, consultants, brokers, insurance agents and other advisors operate within compensation structures that are misaligned with their customers' interests and often create strong incentives to steer customers into particular investment products. These conflicts of interest do not always have to be disclosed and advisors have limited liability under federal pension law for any harms resulting from the advice they provide to plan sponsors and retirement investors. These harms include the loss of billions of dollars a year for retirement investors in the form of eroded plan and IRA investment results, often after rollovers out of ERISA-protected plans and into IRAs"*[1]

***—U.S. Department of Labor-Employee Benefits Security Administration***

The main concerns stemming from this law and the cause for so much of the worry being expressed by members of the financial services industry is its control of the way a financial advisor must now market himself

**I hope to suggest how our special type of education and unique group of professionals can best navigate this cumbersome law without breaking any of its rules.**


As of the year ending 2015 U.S. retirement assets reached nearly $25 trillion.

or herself in the future when communicating with members of the general public about retirement savings. These concerns will become apparent as this article unfolds in the ensuing paragraphs. However, of much more importance, is to understand this new ruling in light of how it may or may not affect the *Nelson Nash Institute,* the *graduates of the IBC Practitioner Program,* which are all financial professionals, and *The Infinite Banking Concept* itself. At best, I hope to suggest how our special type of education and unique group of professionals can best navigate this cumbersome law without breaking any of its rules.

**Background**

The last 40 years have ushered in dramatic changes in the retirement savings arena and have increased the importance and need for sound investment advice for members of the general public. In 1974 Congress enacted the "Employee Retirement Income Security Act (ERISA)" to protect these tax-preferred retirement savings under the auspices of the U.S. Department of Labor. This included the government pension funds, the private sector defined benefit (DB) plans, the defined contribution (DC) plans, the more popular "participant-directed" 401(k) -403(b)- 457 type qualified plans and the Individual Retirement Accounts (IRAs).

These retirement savings plans now encompass an enormous share of the financial services industry. Just to underscore the size and growth of this particular sector of the economy note that as of the year ending 2015 U.S. retirement assets reached nearly $25 trillion. According to *The Investment Company,* a source that tracks these statistics, the individual components of these assets broke out this way: The financial assets in corporate defined benefit (DB) plans stood at $3.2 trillion. Defined contribution (DC) assets totaled $6.8 trillion of which $4.7 trillion was held in 401(K) type plans. 56% of these 401(k) type plans were managed by mutual funds. Government pension funds—including federal, state and local government plans—held $5.1 trillion. An additional $2.2 trillion are in Target Date Funds (TDF), a qualified default investment that became available to the public in 2006.[2]

**The Real Rub In The Law Is In The IRA Roll-Overs**

The largest amounts of retirement assets,

**$355 billion was rolled over from employer sponsored retirement plans (what the DOL calls ERISA protected plans) into IRAs in 2012 and this is where the inherent conflict of interest resides.**


however, are to be found in the individual retirement accounts (IRAs), which stood at $7.6 trillion. Of all IRA assets, $3 trillion, or 45% was invested in mutual funds, the remainder in other types of financial products including land, real estate and annuities. The Investment Company Institute goes on to say that $355 billion was rolled over from employer sponsored retirement plans (what the DOL calls ERISA protected plans) into IRAs in 2012 and this is where the inherent conflict of interest resides. In other words, the question arises—"is it in the best economic interest of the client or that of the representative, agent or investment advisor to determine whether the retirement funds stay with the employee sponsored plan or be rolled over?"[3]

Obviously, we can see the implications. But in reality this can't be all about the rollovers that go to IRAs as the sole trigger for a complete overhaul of the fiduciary definition. Most of us have heard, read or personally experienced the horrendous fees that can be charged even within the ERISA-protected plans by authorized fiduciaries when the underlying assets are of a certain type—as in mutual funds (the load vs. no-load variety). Such financial products can and often do erode the results of these plans in excessive fees and transactions, not to mention market volatility. Perhaps this is one of the stronger reasons for the new fiduciary ruling. The DOL does state that the ruling is "meant to stop some large financial fiduciary companies from pressuring independent advisors into recommending these types of financial products because they profit the large companies the most over those that are better for investors."[4]

**ERISA–protected plans have a fiduciary who is responsible for making sure the investment alternatives in the plan are prudent, while there is no such responsible fiduciary in the IRA context.**

Still, it is hard to miss the implication that the DOL ruling seems to specifically target the distinct difference between the "ERISA-protected plans" and the individual retirement accounts (IRAs). The DOL emphasizes that there are few restrictions on investment choices in IRAs, consequently "individual savers often look to a financial advisor to help select the right product. These advisors may be brokers, insurance agents, registered investment advisors, or others holding themselves out as financial planning experts. These "advisers" are subject to different legal standards, and are not always required to act in their customer's best interest."[5]

**Is Every Communication with A Financial Advisor About Retirement Accounts A Fiduciary Conversation?**

The rule categorically states the following— "A *recommendation* is a communication that, based on its content, context, and presentation, would reasonably be viewed as a suggestion that the advice recipient engage in or refrain from taking a particular course of action. The more individually tailored the communication is to a specific advice recipient or recipients, the more likely the communication will be viewed as a recommendation."[6]


**The Department of Labor's new ruling is not prohibiting commissions or revenue sharing between financial advisors and third parties.**

In other words, ERISA–protected plans have a fiduciary who is responsible for making sure the investment alternatives in the plan are prudent, while there is no such responsible fiduciary in the IRA context. Consequently, in the future under the new ruling, references to specific investment alternatives are to be treated as fiduciary recommendations and these "advisors," can and will be held accountable.

From this we can ascertain that all those who provide investment advice to plans, plan sponsors, fiduciaries, plan participants, beneficiaries, IRAs and IRA owners must either avoid payments that create a conflict of interest or comply with the protective terms of an "exemption" issued by the Department of Labor. Basically, these exemptions, as in the "Best Interest Contract Exemption," or the "Principal Transaction Exemption," are disclosure statements—that will be open for inspection by the advice recipient— which will specify the fees and commissions earned by a financial advisor.

But to clarify, the Department of Labor's new ruling is not prohibiting commissions or revenue sharing between financial advisors and third parties. It explicitly says so. "Given that the Department is not banning commissions or other common types of compensation, but rather is requiring advisors to provide advice that is in their client's best interest, the rule and exemptions as crafted, preserve and expand access to good retirement advice for small savers that helps them lay the groundwork for a secure retirement."[7]



Carefully analyzing these directives, the most important take away from all this is that firms, *not* the independent advisors, will be the ones obligated to acknowledge their fiduciary status first and then the status of their individual advisors as "fiduciaries" or advisors requiring the disclosure exemptions. Consequently, this is still a "wait and see" situation. Most firms are still studying the law and will be using the next 12 months until the law becomes effective to determine how best to communicate these new requirements to their individual advisors. The individual advisor, for all practical purposes, is basically powerless to do much of anything at this point but wait for additional instructions from his or her firm.

**Another provision of the DOL Ruling that exempts the Nelson Nash Institute and all of its educational outlets is the "general communications" provision.**

### What About IBC And The DOL Rule?

It is quite safe to say that *The Nelson Nash Institute, The IBC Practitioner Program,* its books, teaching videos, newsletters and all other of its educational material does not constitute fiduciary investment advice about retirement savings and investments. Its education to the general public, or to financial professionals via the IBC Practitioner Program does not meet the definition of "recommendations" as described in the rule.

In fact, all of the Institute's educational outlets are completely outside the domain of this ruling altogether simply because the *Infinite Banking Concept* and its use of a dividend paying whole life insurance policy, strictly speaking, is not promoting a designated investment alternative to an ERISA plan or IRA; Nelson Nash goes out of his way to say that IBC is "not about investments" of any kind! Additionally the Institute and its educational outlets are not providing education that recommends that individuals or financial professionals transfer in or out of the preferred tax retirement savings arena. In order to hone in on this fact we must not forget that these government programs are "tax-deferred plans" and all IBC designed insurance policies are funded with after tax dollars. It makes no sense to put an IBC-designed policy inside a tax-qualified plan or vice versa. That would be ridiculously impractical and ill advised.

**The fine line will always be to make sure the education that contrasts IBC to other places where money can be stored, including tax-qualified plans, never recommends that money in these qualified plans should be transferred in order to fund an IBC-designed policy.**

What the Nelson Nash Institute does do through its educational efforts is to *contrast* IBC to other places where money can be stored, *including* tax qualified plans. It can legally continue to provide this form of education since the Department of Labor in its own language regarding the DOL ruling states that it believes that "education about retirement savings and general financial and investment information is actually beneficial and helpful to plan participants, and IRA owners so long as it does not rise to the level of recommenda-

**The Nelson Nash Institute and all of its educational outlets admonish all of its IBC Practitioner graduates to stay away from these types of communications with the general public when discussing IBC.**

tions as defined in the rule."[8] It is for this reason that the DOL ruling created the "education" provision within it.

Another provision of the DOL Ruling that exempts the Nelson Nash Institute and all of its educational outlets is the "general communications" provision. In its own words the DOL states that "general communications that a reasonable person would not view as an investment recommendation including general circulation newsletters; commentary in publicity broadcast talk shows; remarks and presentations in widely attended speeches and conferences; research or news reports prepared for general distribution; general marketing materials; and general market data including data on market performance, market indices, or trading volumes, price quotes, performance reports, or prospectuses would not constitute communications that are considered recommendations."[8]

The fine line will always be to make sure the education that contrasts IBC to other places where money can be stored, including tax-qualified plans, never recommends that money in these qualified plans should be transferred in order to fund an IBC-designed policy. This is specifically why even the section on *"implementation"* in the IBC Practitioner Course Manual, created in 2013 and distributed to all IBC students with instructions on funding these IBC policies, followed very strict guidelines using the Financial Industry Regulatory Authority (FINRA), which coincidently parallels the DOL ruling.

## The IBC Workshop for the General Public

Of course it's true that many IBC Practitioner graduates are licensed professionals who are indeed qualified, because of their licenses, to have asset transfer discussions with their clients that include recommendations regarding qualified tax-deferred retirement savings. Yet the Nelson Nash Institute and all of its educational outlets admonish all of its IBC Practitioner graduates to stay away from these types of communications with the general public when discussing IBC. Given this new ruling, this advice makes more sense now than ever before.

**When you take into account all of the aforementioned provisions of the DOL Fiduciary Ruling, the "IBC Workshop for the General Public" may just be the best educational program for the times.**

When you take into account all of the aforementioned provisions of the DOL Fiduciary Ruling, the *"IBC Workshop for the General Public"* may just be the best educational program for the times. Available only to IBC Practitioner Program graduates, our advisors serve only as hosts (or sponsors) of the strictly educational events. The Authorized IBC practitioner is actually excluded, by agreement, from having any speaking part in the entire educational presentation. In this way the lecturers speak only on behalf of the Nelson Nash Institute and are free to provide the general public the sound message of the Infinite Banking Concept completely detached from a selling environment. In the near future, and as the DOL ruling takes effect, this may prove to be the best way for IBC Practitioners to spread the message of IBC in a purely educational setting.

## Conclusion

As this article has made clear, the Department of Labor's Fiduciary Ruling, which has now been officially released, is a lengthy and complicated document that will take many months to fully comprehend. Hundreds of thousands of financial professionals in the financial services industry will be affected by the tenets of the new law.

On the surface the DOL fiduciary ruling advocates investor protection in the specific landscape of tax-qualified or preferred tax retirement savings. Nevertheless, it sweeps across these boundaries and reaches out to capture all those who hold themselves out as financial planning or retirement experts, all in an attempt to regulate what DOL sees as unregulated advisors in the territory of individual retirement accounts (IRAs). The aim is to prevent further disbursement out of ERISA-protected plans that have responsible fiduciary oversight into IRA plans that have no responsible fiduciary oversight at all.

In order to ensure that retirement investors receive advice that is in their best interest while at the same time allowing these advisors to receive commission-based compensation, these advisors must come under the prohibited transaction exemptions (PTE), issued and authorized by the Secretary of Labor. The primary examples of these exemptions are the "Best Interest Contract Exemption" and the "Principal Transaction Exemption," which permit firms and their advisors to rely on many current compensation and fee practices.

Yet, at the present time, individual advisors cannot fully know where they actually stand under this new ruling until their fiduciary firms, whether it be their broker-dealer, insurance company, banking institution or other type of financial institution, notifies them of their new status and their new requirements. This of course could take several more months as the new ruling approaches its effective date of April 2017.

The Nelson Nash Institute and all its other educational outlets, which are fully outside the covered investment advice under the rule, can only sympathize with all financial professionals. Many of them are our own IBC Practitioner graduates, who are faced with yet another form of unpleasant government regulation and the long wait for its concluding effects.

Those of us who are the most familiar with the philosophy of IBC know all to well that Nelson Nash has always contended that government programs in any fashion were simply a bad idea. Furthermore, Nash completely shuns the whole notion of retirement altogether. This is an attitude this author agrees with whole-heartedly.

The most unpleasant thing to contemplate in this article in light of our current economic environment is recognizing that our national debt is nearing an astonishing $20 trillion and that the total assets inside these government-controlled retirement savings dangerously equate to about the same amount. It makes you wonder.

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# Living in the Market

## Interview With Quarterpoint Capital Management

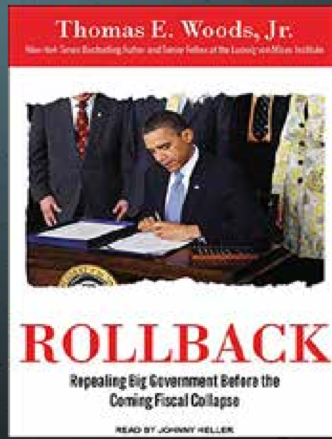
Henri Pellerin is an entrepreneur and investor with a passion for integrating Austrian Economics with personal finance and value investing. With his mission to promote and popularize the ideas and strategies that he utilizes in his own portfolio, Henri has continued to work with Quarterpoint Capital Management as an Investment Advisor Representative since 2014 and in 2015 he launched The Pellerin Company to provide additional services for his clients. Mr. Pellerin holds a BS in economics from Montana State University, a Series 65 license, and is a licensed life and health insurance producer for the state of Montana.

Andrew Sullivan is the portfolio manager for Quarterpoint Capital Management, LLC, a boutique value investing firm headquartered in Bozeman. He grew up in Greece, Holland, Bahrain, and Hong Kong. After returning to the United States for high school and college, he labored on Wall Street as an analyst researching aerospace companies. In 2008 he moved to Washington, DC to work as a research analyst and stock picker. In 2012, dreaming of the West and starting his own firm, he moved to Bozeman. He founded Quarterpoint Capital Management in 2013. Andrew holds the Chartered Financial Analyst designation from CFA Institute.

**Lara-Murphy Report:** How did you discover Austrian economics?

**Andrew Sullivan:** A research project I did on gold while I was at the Motley Fool exposed me to a world where people think differently about the economy and money than typical Keynesian dogmatists. Subsequent reading opened up a wealth of Austrian ideas and I quickly realized they made a lot of sense!

“A fellow student lent me his copy of *Meltdown* by Tom Woods.”




**Henri Pellerin:** I was an undergrad majoring in economics during the 2008 financial crisis and I was developing a strong appreciation for free market economics. Then a fellow student lent me his copy of *Meltdown* by Tom Woods. That book opened my eyes and sent me on an intellectual journey through the works of Ludwig Von Mises, FA Hayek, Murray Rothbard, Henry Hazlitt, Walter Block, and even, Bob Murphy! In turn these ideas lead me toward investors like Mark Skousen, Peter Schiff, Adrian Day, Jim Rogers, and even, Andrew Sullivan!

**LMR:** What made you decide on a career in the financial sector? Had you, or do you, considered a more academic path?

**Andrew:** Advancing human knowledge is wonderful, but the intellectual challenge of investing has always captivated me. I compete against very smart people in an ever-changing landscape. The company you invested in on Tuesday is slightly different on Wednesday. People and machines are a day older, new competitors might arise, competing technology improves, consumer preferences change, and all sorts of prices change.

To perform well, you must minimize risk by finding areas where change won't ravage your company, or even better, will help your company. Then you have to find mispricings — areas where the market has got it wrong and there is value on offer. Exploit-

“The company you invested in on Tuesday is slightly different on Wednesday.”

"You have to find mispricings — areas where the market has got it wrong."

ing mispriced assets requires a modicum of intelligence but also patience, discipline, and the ability to hold your convictions as you go against the crowd.

**Henri:** Investing and economics have been passions of mine since I was in high school. I love learning about those topics, explaining them to others, and, using what I know to provide value to people. I did at one time consider an academic career but found the world of academia too tied up with government grants, oversight, and the tenured sophists who promote Keynesian economics. Therefore, I have chosen to live by the virtues of the market by going out and competing – I think I will do far more good this way.

**LMR:** In what ways does knowledge of Austrian economics help you in your job? Should other investors study it?

**Andrew & Henri:** Debt-fueled booms happen often and usually end badly, but before that happens, companies do really well and everyone gets caught up in what the media dubs "strong economic growth." Austrian business cycle theory tells you the boom is unsustainable and will eventually pop. This allows you to avoid stepping into puddles

"I have chosen to live by the virtues of the market by going out and competing – I think I will do far more good this way."

"Successful investors must cut through misdirection and clutter to understand the structure of production, prices, and interest rates. Austrian theory provides superior explanations of those topics."

like Bill Murray did in Groundhog Day!

Successful investors must cut through misdirection and clutter to understand the structure of production, prices, and interest rates. Austrian theory provides superior explanations of those topics so yes investors should absolutely take note of Austrian teachings.

**LMR:** When you interact with other investors and analysts who study markets for a living, what is their knowledge and opinion of Austrian economics?

**Andrew & Henri:** Wise investors understand Austrian theories but many folks have not even heard of Austrian economics. Getting exposure to Austrian ideas takes meeting a new person, a chance encounter, or a very healthy intellectual curiosity. One could probably spend a career on Wall Street without knowing about the Austrian School. Austrian theories explain money, credit, and the business cycle so well yet are almost completely crowded out by nonsensical ideas that produced eras like the stagflation of the 1970s.

**LMR:** Finally, what's your outlook on the future? Do you think there's a major crash coming, as many Austrians warn? Where do

"Wise investors understand Austrian theories but many folks have not even heard of Austrian economics."

"We have never seen such an extreme set of levers being pulled to keep an economy going."

you stand on the inflation/deflation debate?

**Andrew & Henri:** We are in uncharted territory. Central banks have pumped unprecedented levels of new money into the economy, have pushed interest rates negative, and are even buying individual stocks! We have never seen such an extreme set of levers being pulled to keep an economy going. This cannot end well because there are hard laws in economics — booms built on cheap money eventually bust and shakeouts and recessions are necessary to clear out dead wood.


"Austrian theory suggests a crash is coming but recessions are no longer palatable politically."

Austrian theory suggests a crash is coming but recessions are no longer palatable politically, so as bad debts threaten the stability of the system, central banks will be even more aggressive in filling holes with newly-created money. Thus, the ordinary person will lose purchasing power to compensate for the follies of others. An expansion of the money supply is by definition, inflation.

Prices, on the other hand, are impacted by so many things. Take technological progress. We can fly across oceans today at vastly lower prices than 80 years ago. These sorts of efficiency gains have counteracted a 6-7% annual increase in the money supply. Economic goods are constantly shifting as well, making prices hard to forecast and measure. Therefore, even if monetary inflation is rampant, price inflation might not occur, as Murray Rothbard demonstrated was the case in the 1920s. All we can say is prepare for the money supply to increase even more in the future!

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# EVENTS & ENGAGEMENTS

**APRIL 9, 2016**
**SAN ANTONIO, TX**

Murphy discusses sound money at Texas LP State Convention

**APRIL 12, 2016**
**BRENTWOOD, TN**

Lara presents on Facing The Economic Dangers of 2016, for CCC Corporation

**APRIL 14, 2016**
**LOCK HAVEN, PA**

Murphy presents on economic distortions at Lock Haven University

**MAY 10-12, 2016**
**ST. LOUIS, MO**

Nelson Nash, Lara, and Murphy present on IBC at Freedom Advisers

**MAY 21, 2016**
**SEATTLE, WA**

Murphy presents at Mises Circle

**SOME EVENTS MAY BE CLOSED TO GENERAL PUBLIC.**
**FOR MORE INFORMATION: LMREVENTS@USATRUSTONLINE.COM**

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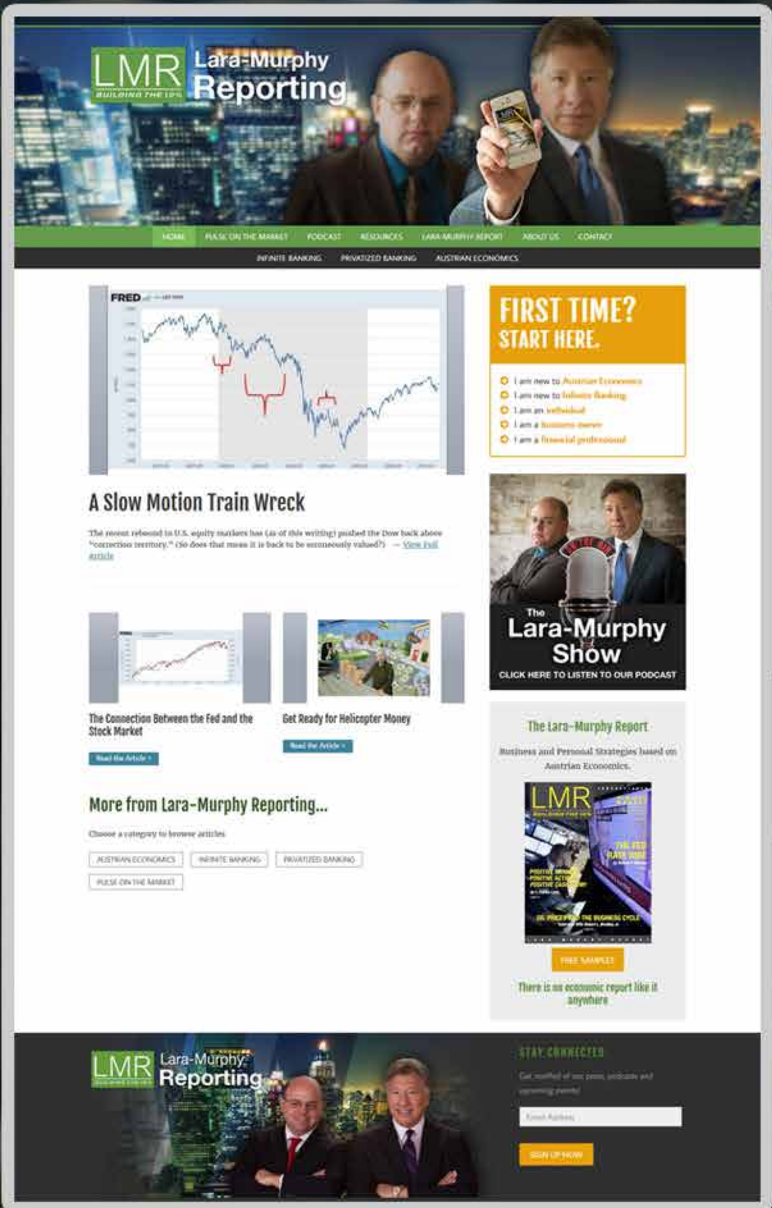



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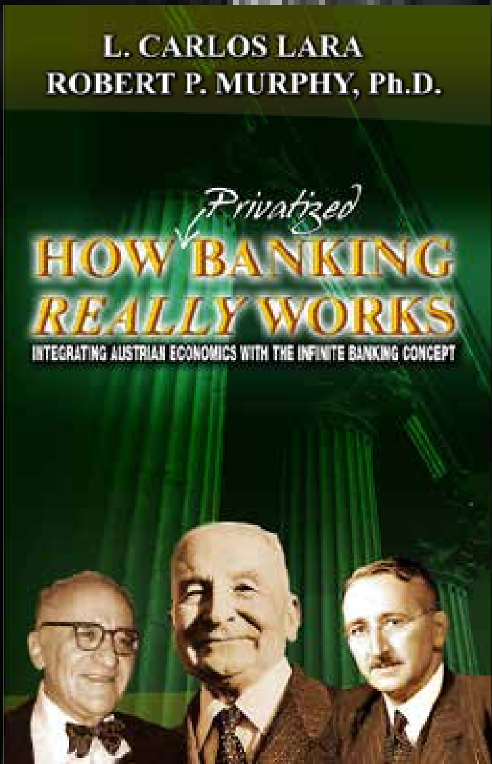


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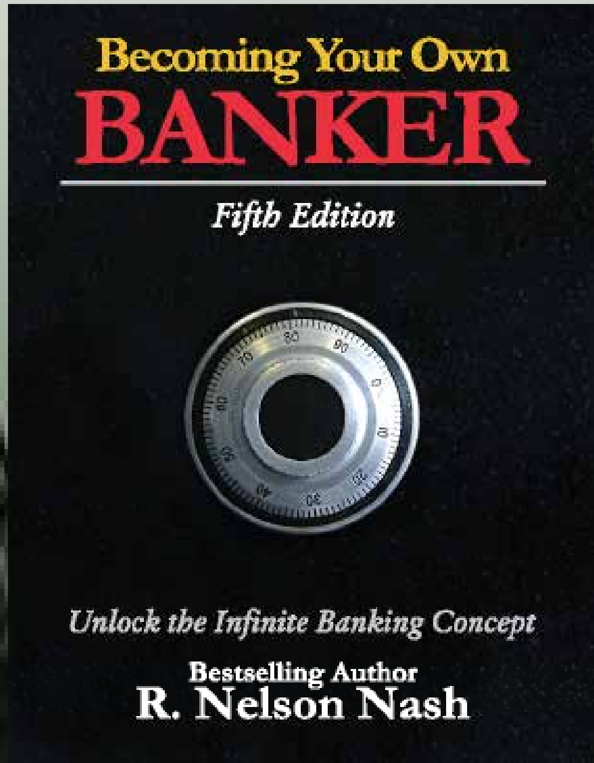


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