



The House Financial Services Committee on Thursday will begin its consideration of legislation intended to derail rulemaking by the Department of Labor (DOL) to update and strengthen protections for workers and retirees saving and investing for a secure and independent retirement. We urge you to reject any such proposal that weakens or delays these crucial protections, whether it is based on H.R. 1090 or a phony Wall Street “alternative” to DOL rules. Instead, you should stand with your hard-working constituents saving for retirement who deserve financial advice that is in their best interest, no matter who provides it.

Please consider these key points in support of DOL fiduciary rulemaking:

***Retirement investment rules are outdated and lack essential protections.*** The retirement market today works well for the broker-dealers, insurance companies, and mutual fund complexes that reap billions of dollars in profits providing services to tax-subsidized retirement accounts. But it works much less well for working families and retirees who struggle with complex decisions about how best to save and invest for and in retirement. Rules to protect ordinary savers have not been updated for 40 years. Under these outdated rules, advisers may recommend investments that boost their compensation but saddle clients with high fees and low returns. Protections for working families and retirees need to be strengthened by requiring the financial professionals they turn to for retirement investment advice to act in their best interests.

**Additional resources:**

[Organizations supporting DOL fiduciary rulemaking](#)  
[The cost to retirement investors of conflicted advice](#)  
[Fact sheet on the DOL rule: The problem, solution, and misleading attacks](#)  
[Consumer Federation of America: DOL Fiduciary Questions and Answers](#)  
[Better Markets: DOL Fiduciary Rulemaking: Myths and Facts](#)

***The DOL rule is balanced.*** The Department of Labor has produced a balanced rule that provides long overdue new protections for retirement savers while providing flexibility for financial professionals to continue to operate under a variety of business models.

**Additional resources:**

[CFA: DOL Delivers on its Promise: Conflict of Interest Rule Proposal Provides Needed Protections for Retirement Savers, Flexibility for Financial Firms](#)  
[AARP, AFR, Better Markets, CFA: Overview of DOL Conflict of Interest Rule Proposal](#)  
[SaveOurRetirement: Setting the Record Straight on Industry’s “Unworkable” Claim](#)

***Industry alternatives are “unworkable” for retirement savers.*** Congress should reject any proposals such as the “alternative” approaches advanced by various industry players that purport to impose a best interest standard but that fail to protect investors in any meaningful way. As constructed, DOL’s proposed rule recognizes that a “best interest” standard sets a higher bar than a “suitability standard” and that, to be effective, any such standard must be backed by real mitigation of financial conflicts of interest. As such, the proposed rule is absolutely consistent with the reasonable expectations of retirement savers when they turn to financial professionals for advice. In contrast, the industry’s alternative “best interest” standard is such a standard in name only.

**Additional resources:**

[CFA, AFR, Better Markets: Fidelity's 'New Best Interest Paradigm' Does Not Serve the Best Interests of America's Working Families and Retirees](#)

[CFA: Statement on SIFMA's Proposed Best Interests of Customer Standard for Broker-Dealers](#)

***No need to wait for the SEC to act.*** Congress should reject HR 1090, or any other measure that attempts to obstruct DOL from protecting retirement investment savers by passing the buck to the Securities and Exchange Commission (SEC). If the SEC ever gets around to adopting a new rule for investment advice – action that is far from guaranteed given that it has been considering this issue for over a decade without even proposing a rule -- it would be limited to recommendations regarding securities. An SEC rulemaking would not apply to recommendations of insurance products, which form an important part of the retirement market, or other non-securities investments that are sold to investors through retirement accounts. These restrictions on SEC jurisdiction mean that an SEC rule could never protect a significant share of employment-based retirement savings. Moreover, the DOL has gone out of its way to incorporate securities law principles in its rule: the DOL definition of investment advice is virtually identical to the securities law definition; the best interest standard closely parallels Section 913 of Dodd-Frank, where Congress identified “best interests, without regard to the financial or other interests of the adviser” as the standard that should apply if the SEC were to adopt rules under the securities laws; and DOL deals with issues related to ongoing duty of care and sales from a limited menu of proprietary products in ways that are consistent with the principles in Dodd-Frank.

**Additional resources:**

[Requiring the DOL to Wait for the SEC Is a Groundless Tactic to Derail the Rule](#)

[June 3, 2015 letter from Better Markets to FINRA Chairman and CEO](#)

[Fund Democracy, Consumer Federation of America, AARP, Americans for Financial Reform, and Public Citizen's Congress Watch: October 18, 2013 letter to OMB on SEC vs. DOL jurisdiction](#)

***Small savers will NOT lose access to advice and products.*** Do not be taken in by the industry argument that many financial professionals will simply stop serving this market if the rule is adopted and that small investors will be harmed if they lose access to advice or are forced into more expensive fee accounts. The truth is that there is no compelling evidence that brokerage accounts are consistently more affordable than fee-based accounts when the total cost of investing is taken into account. And, there are many advisers who already provide investment advice to retirement savers under the best interest standard, and they will be happy to take on any clients abandoned by advisers who refuse to put their clients' financial interests ahead of their own.

**Additional resources:**

[Ray Ferrara, CFP®, chairman and CEO of ProVise Management Group LLC, blog, “DOL's fiduciary standard: Good for clients; workable for advisers,” The Hill](#)

[Financial Planning Coalition testimony before the Department of Labor](#)

[Better Markets: Don't fall for SIFMA's Spin Campaign](#)

***Retirement investors need sound advice, not a sales pitch.*** The Department of Labor's proposed rule will help ensure that, when workers and retirees turn to financial professionals for investment advice, they get objective advice that is in their best interest, rather than a sales pitch for an expensive product dressed up as advice. The proposed rule won't solve every problem with our retirement system, but it is very much worth fighting for. We urge you to reject any efforts –whether through stand-alone legislation or a policy rider on a spending bill –that would derail this initiative. It is critical to helping Americans save and invest for a secure retirement.

**Additional resources:**

[Read comment letters to the DOL](#) from Americans for Financial Reform, AFSCME, Better Markets, Center for American Progress, Consumer Federation of America, Committee for a Fiduciary Standard, Consumer Action, Consumers Union, Financial Engines, Financial Planning Coalition, Fund Democracy, The Leadership Conference on Civil and Human Rights, National Association of Social Workers,

National Council of La Raza, National Women's Law Center, Organizations Concerned with the Well-Being of America's Older Population, Pension Rights Center, Personal Capital and Public Investors Arbitration Bar Association