

Ensuring that Retirement Advice Serves the Best Interests of Workers and Retirees: Industry Alternatives Fall Short

	DOL Rule Proposal	"Retirement Choice Protection Act" (H.R. 3922)	Fidelity's New Best Interest Paradigm	SIFMA	FSI	ACLI	ICI	FSR
Does the proposed approach cover the full range of services perceived and relied on by workers and retirees as retirement investment advice?	Yes	No	No	No	No	No	No	No
Reasons								
Preserves existing loopholes that enable firms to evade the best interest standard through the use of disclaimers.		X	X ^a	X	X	X ^b	X ^c	X
Would provide a broad seller's carve-out, depriving retirement savers of the protections of a best interest standard when the conflicts are greatest.		X	X ^a	X	X	X	X	X
Does not clearly and comprehensively apply a best interest standard to rollover recommendations, including recommendations with regard to whether to conduct a rollover.		? ^d	X	X	? ^d	X	X ^e	X ^f

- a -- The Fidelity proposal doesn't explicitly include existing loopholes or a seller's carve-out, but it achieves the same effect by giving firms broad discretion to contract out of their duty to provide best interest advice.
- b -- Would expand the existing loopholes by applying a best interest standard only when the retirement saver requests it.
- c -- Would expand the existing loopholes by allowing the expectations of the advisor, rather than the expectations of the retirement saver, to determine whether a best interest standard applies.
- d -- While the proposed approach includes rollover recommendations in the definition of investment advice, it appears that advice about whether to rollover funds might be exempted under the education carve-out.
- e -- Includes rollover recommendations in the definition of investment advice, but proposes expanded carve-outs for call center employees and where there is an (undefined) *de minimis* compensation interest.
- f -- Includes rollover recommendations in its proposed "best interest exemption," but the standard it applies is closer to a suitability standard than a best interest standard.

	DOL Rule Proposal	"Retirement Choice Protection Act" (H.R. 3922)	Fidelity's New Best Interest Paradigm	SIFMA	FSI	ACLI	ICI	FSR
Does the proposed approach apply a robust, enforceable best interest standard?	Yes	No	No	No	No	No	No	No
Reasons								
Doesn't require firms to reduce incentives that conflict with the best interests of retirement savers and that reward bad advice.		X	X	X	Y ^g	X	X	X
The proposal applies a watered down best interest standard that doesn't meet the Dodd-Frank 913 standard of requiring advice "without regard to" the financial or other interests of the adviser.		X	X	X	X	X	X	X
The proposal relies on disclosure, which has been shown to be ineffective, as the only mechanism to address conflicts of interest.		X	X	X	Y ^g	X	X	X
The proposal doesn't include an effective enforcement mechanism for IRA investors.		X ^h	X	X ⁱ	X	X	X	X

- g -- FSI is alone among the major industry rule opponents in suggesting some limitations on the conflicts of interest embedded in the sales-based business model, but these do not go far enough.
- h -- The legislation transfers rulemaking authority for IRAs to the Department of Treasury but is silent on the question of enforcement authority.
- i -- SIFMA's proposed approach relies on enforcement by FINRA and the SEC, which do not have jurisdiction over non-securities recommendations common in the retirement market.