



AARP Urges Members to Support the Department of Labor's Final Retirement Security Rule

The Department of Labor (DOL) finalized the [Retirement Security Rule](#) on April 25, 2024. DOL made a number of changes in response to feedback from [public comments](#) received, as well as testimony at two full days of [public hearings](#). The final rule **preserves its core goal of requiring that all financial professionals provide retirement investors advice that is in their best interest.** It also **reflects significant input from the financial services industry** to ensure that it is more workable and better aligned with the SEC's Regulation Best Interest.

Why it's important to oppose a CRA resolution:

Voting for a Congressional Review Act (CRA) resolution of disapproval is a **nuclear option** and should be recognized as such. If a CRA passes both chambers of Congress on veto-proof margins, the Agency that issued that Rule may never issue a rule in "substantially the same form."

By supporting a CRA resolution of disapproval on the DOL Retirement Security Rule Congress is **making a statement that the DOL should *never again* issue any type of rule requiring financial professionals to put their clients' best interests first**, no matter the details of the rule. Further, this would be done by a simple majority vote in the Senate. This should not be taken lightly.

What important elements does the rule preserve?

The final rule preserves core elements that will close important loopholes and provide critical protections for retirement savers, including:

- **Closes the One-Time Advice Loophole:** One-time advice is covered (such as critical recommendations about rollovers) under fiduciary protections.
- **Closes the Plan Sponsor Loophole:** Advice to plan fiduciaries (employers or plan sponsors who seek outside advice about what to include in their 401(k) plan, for example) remains covered.
- **Closes the Non-Securities Loophole:** Advice regarding assets not covered under the SEC's "best interest" regulations, including real estate, certain certificates of deposit and other bank products, and certain insurance products, remains covered.

- **Reiterates Financial Professionals Cannot Misrepresent:** If you represent or acknowledge you are acting as a fiduciary, you cannot disclose this away in fine print.

What changes did the DOL make?

In response to the more than 400 individual comments and 14 form comment letters DOL received (totaling more than 19,000 comments on the Rule), the DOL made a number of changes to the final rule:

- **Narrows the Rule Making It Easier to Comply:** Narrows the context in which a recommendation will constitute ERISA fiduciary investment advice and makes clear the test for fiduciary status is objective.
- **Gives Over 18 Months for Firms to Fully Comply:** Extends the effective date from the proposed 60 days to 150 days from date of publication in the Federal Register with a one-year phase-in for the PTEs, meaning the rule will generally become effective on September 23, 2024 but firms have until 2025 to fully comply.
- **Makes Clear Sales Pitches Are Not Advice:** Includes a sales exemption, making clear that mere sales pitches that fall short of meeting the new Final Rule test are not covered under fiduciary protections. Clarifies the rule is focused on communications with people who have authority over plan investment decisions (not, for example, “hire me” conversations, or call center workers providing information).
- **Affirmatively Allows Investor Education:** Clarifies that providing investment information or education, without an investment recommendation, is not advice within the meaning of the rule.
- **Affirmatively Allows Educational Conferences:** Clarifies language around conferences to make clear they are permitted, so long as there are reasonable guardrails in place, especially if they involve travel and they are not structured in a manner that would lead financial professionals to make recommendations that do not meet the Prohibited Transaction Exemption's Care Obligation or Loyalty Obligation.