Two new House bills would alter Obama fiduciary rule

By Editorial Staff *Mon, Jul 24, 2017*

One bill would mitigate adviser conflicts of interest with new disclosure requirements. The other was a funding bill that included a provision not to enforce the existing fiduciary rule, which became effective June 9.

Proposals to kill the Department of Labor's fiduciary rule were approved by two separate House committees this week in the latest Republican-led assault on the Obama administration's attempt to protect rollover IRA owners from conflicted brokers, according to *Bank Investment Consultant* magazine.

The fiduciary rule was issued in April 2016 and became effective (but not enforceable yet) on June 9, 2017.

The House Committee on Education and the Workforce's "Affordable Retirement Advice for Savers Act" would replace the existing fiduciary rule with a statutory obligation for advisers to make recommendations in their clients' best interests, but relying more heavily on disclosure to mitigate conflicts of interest. It now goes to the full House for consideration.

At the same time, the House Appropriations Committee approved a funding bill blocking the department from enforcing the fiduciary rule. The second phase, which includes the controversial "Best Interest Contract" provisions, has a scheduled implementation date of Jan. 1, 2018.

"We completely agree that Americans deserve retirement advice that's in their best interests," said Rep. Phil Roe (R-TN), the author of the bill. "But a rule requiring so-called 'sound retirement advice' achieves nothing if it means many people will no longer have access to retirement advice at all."

Roe, a medical doctor, was echoing the argument made by the financial services industry that brokerages will have to stop providing advisory services to middle-income rollover IRA clients if the fiduciary rule hinders them from earning commissions on the sale of products to those clients. In the 2016 election cycle, according to **opensecrets.com**, Roe received $11,000 in campaign contributions from the Investment Company Institute (which spend almost $5 million as a lobbyist in that cycle), $10,000 from New York Life, and $10,00o from UBS. Most of his largest donors were medical societies, however.

The commissions, paid by mutual fund companies and annuity issuers, serve as upfront "vendor financing" for financial services when mutual funds and annuities are sold. The manufacturers gradually earn back those commissions from investors by deducting annual fees from the value of their mutual funds or annuity contracts.

The Obama DOL objected to these long-standing arrangements because few investors understand how those arrangements work. The fees are, in effect, hidden from them. Those fee arrangements are disclosed, but only in the fine print of contracts that few investors read.

When investors have large enough account balances, advisors can deduct a percentage—say, 0.50% to 1.5%—of their account balances ("assets under management" in financial industry parlance) each year as compensation for general financial advice and management services.

But the account balances of many middle-class rollover IRA owners, especially those who are retired and about to spend their savings down, aren’t large enough, and may never be large enough, to generate attractive levels of advisor compensation at those percentages.