

## HR 4293

Affordable Retirement Advice Protection Act

**Congress:** 114 (2015–2017, Ended)

**Chamber:** House

**Policy Area:** Labor and Employment

**Introduced:** Dec 18, 2015

**Current Status:** Placed on the Union Calendar, Calendar No. 391.

**Latest Action:** Placed on the Union Calendar, Calendar No. 391. (Apr 20, 2016)

**Official Text:** <https://www.congress.gov/bill/114th-congress/house-bill/4293>

### Sponsor

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**Name:** Rep. Roe, David P. [R-TN-1]

**Party:** Republican • **State:** TN • **Chamber:** House

**Cosponsors** (38 total)

| Cosponsor                               | Party / State | Role | Date Joined  |
|---|---------------|------|--------------|
| Rep. Carter, Earl L. "Buddy" [R-GA-1]   | R · GA        |      | Dec 18, 2015 |
| Rep. Larson, John B. [D-CT-1]           | D · CT        |      | Dec 18, 2015 |
| Rep. Neal, Richard E. [D-MA-1]          | D · MA        |      | Dec 18, 2015 |
| Rep. Roskam, Peter J. [R-IL-6]          | R · IL        |      | Dec 18, 2015 |
| Rep. Scott, David [D-GA-13]             | D · GA        |      | Dec 18, 2015 |
| Rep. Lujan Grisham, Michelle [D-NM-1]   | D · NM        |      | Jan 11, 2016 |
| Rep. Reed, Tom [R-NY-23]                | R · NY        |      | Jan 11, 2016 |
| Rep. Boustany, Charles W., Jr. [R-LA-3] | R · LA        |      | Feb 1, 2016  |
| Rep. Byrne, Bradley [R-AL-1]            | R · AL        |      | Feb 1, 2016  |
| Rep. Clay, Wm. Lacy [D-MO-1]            | D · MO        |      | Feb 1, 2016  |
| Rep. Wilson, Joe [R-SC-2]               | R · SC        |      | Feb 1, 2016  |
| Rep. Young, Todd [R-IN-9]               | R · IN        |      | Feb 1, 2016  |
| Rep. Holding, George [R-NC-13]          | R · NC        |      | Feb 2, 2016  |
| Rep. Renacci, James B. [R-OH-16]        | R · OH        |      | Feb 2, 2016  |
| Rep. Jenkins, Lynn [R-KS-2]             | R · KS        |      | Feb 3, 2016  |
| Rep. MacArthur, Thomas [R-NJ-3]         | R · NJ        |      | Feb 12, 2016 |
| Rep. Walorski, Jackie [R-IN-2]          | R · IN        |      | Feb 12, 2016 |
| Rep. Ashford, Brad [D-NE-2]             | D · NE        |      | Feb 23, 2016 |
| Rep. Paulsen, Erik [R-MN-3]             | R · MN        |      | Feb 23, 2016 |
| Rep. Duncan, John J., Jr. [R-TN-2]      | R · TN        |      | Feb 25, 2016 |
| Rep. Zinke, Ryan K. [R-MT-At Large]     | R · MT        |      | Feb 25, 2016 |
| Rep. Bishop, Mike [R-MI-8]              | R · MI        |      | Feb 26, 2016 |
| Rep. Gibbs, Bob [R-OH-7]                | R · OH        |      | Feb 26, 2016 |
| Rep. Guthrie, Brett [R-KY-2]            | R · KY        |      | Feb 26, 2016 |
| Rep. Meehan, Patrick [R-PA-7]           | R · PA        |      | Feb 26, 2016 |
| Rep. Nunes, Devin [R-CA-22]             | R · CA        |      | Feb 26, 2016 |
| Rep. Reichert, David G. [R-WA-8]        | R · WA        |      | Feb 26, 2016 |
| Rep. Thompson, Glenn [R-PA-5]           | R · PA        |      | Feb 26, 2016 |
| Rep. Tiberi, Patrick J. [R-OH-12]       | R · OH        |      | Feb 26, 2016 |
| Rep. Allen, Rick W. [R-GA-12]           | R · GA        |      | Mar 3, 2016  |
| Rep. Barletta, Lou [R-PA-11]            | R · PA        |      | Mar 3, 2016  |
| Rep. Marchant, Kenny [R-TX-24]          | R · TX        |      | Mar 3, 2016  |
| Rep. Cramer, Kevin [R-ND-At Large]      | R · ND        |      | Mar 15, 2016 |
| Rep. Latta, Robert E. [R-OH-5]          | R · OH        |      | Mar 15, 2016 |
| Rep. Olson, Pete [R-TX-22]              | R · TX        |      | Mar 15, 2016 |
| Rep. Amodei, Mark E. [R-NV-2]           | R · NV        |      | Apr 12, 2016 |
| Rep. Gohmert, Louie [R-TX-1]            | R · TX        |      | Apr 12, 2016 |
| Rep. Sessions, Pete [R-TX-32]           | R · TX        |      | Apr 12, 2016 |

Committee Activity

| Committee                         | Chamber | Activity    | Date         |
|-----------------------------------|---------|-------------|--------------|
| Education and Workforce Committee | House   | Reported By | Apr 20, 2016 |

Subjects & Policy Tags

Policy Area:

Labor and Employment

Related Bills

| Bill        | Relationship | Last Action   |
|-------------|--------------|---|
| 114 HR 4294 | Related bill | <b>Apr 20, 2016:</b> Placed on the Union Calendar, Calendar No. 392.                                    |
| 114 S 2502  | Related bill | <b>Feb 4, 2016:</b> Read twice and referred to the Committee on Health, Education, Labor, and Pensions. |
| 114 S 2505  | Related bill | <b>Feb 4, 2016:</b> Read twice and referred to the Committee on Finance.                                |

## **Affordable Retirement Advice Protection Act**

This bill amends the Employee Retirement Income Security Act of 1974 (ERISA) to modify requirements related to fiduciaries and the provision of investment advice for employer-sponsored retirement plans. It also prohibits the Department of Labor from implementing regulations changing the definition of "fiduciary" unless Congress affirmatively approves the rule.

(Under current law, a person who provides investment advice has a fiduciary obligation that requires the person to provide advice in the sole interest of plan participants and beneficiaries.) This bill amends the statutory definition of fiduciary by adding a definition of investment advice. It also adds a new statutory prohibited transaction exemption for transactions related to the provision of investment advice.

(Sec. 2) The bill specifies that the purpose is to provide that advisors are subject to liability under ERISA if they: (1) provide advice that is impermissible under the prohibited transaction provisions, or (2) breach the best interest standard for the provision of investment advice.

(Sec. 3) The bill defines "investment advice," as it relates to fiduciary duties under ERISA, as a recommendation that relates to:

- the advisability of acquiring, holding, disposing, or exchanging any moneys or other property of a plan by the plan, plan participants, or plan beneficiaries, including any recommendation on whether to take a distribution of benefits from the plan or any recommendation relating to the investment of any moneys or other property of the plan to be distributed from the plan;
- the management of moneys or other property of the plan, including recommendations relating to the management of moneys or other property to be distributed from the plan; or
- the advisability of retaining or ceasing to retain a person who would receive a fee or other compensation for providing any of these types of advice.

For a recommendation to be considered investment advice, it must be rendered pursuant to either:

- a written acknowledgment of the obligation of the investment advisor to act in accordance with fiduciary standards under ERISA; or
- a mutual agreement, arrangement, or understanding (which may include limitations on the scope, timing, and responsibility to provide ongoing monitoring or advice services) between the person making the recommendation and the plan that the recommendation is individualized to the plan and the plan intends to materially rely on the recommendation in making investment or management decisions with respect to any moneys or other property of the plan.

Any disclaimer of a mutual agreement, arrangement, or understanding with respect to a recommendation must be limited to specified language indicating that the information is not individualized or intended to be materially relied on in making investment or management decisions for the plan.

The bill specifies circumstances under which information that is provided with certain disclosures, by certain individuals, or that is limited to certain non-individualized content is not treated as a recommendation made pursuant to a mutual agreement, arrangement, or understanding for purposes of the definition of investment advice and must include a

disclaimer.

The bill establishes an exemption from ERISA prohibited transactions rules for certain transactions related to the provision of investment advice if the following conditions are met:

- no more than reasonable compensation is paid for the advice;
- if the advice is based on a limited range of investment options, which may consist of proprietary products, the limitations are clearly disclosed to the recipient prior to any transaction based on the advice using a notice that also indicates that the same or similar investments may be available at a different cost from other sources; and
- if the advice may result in variable compensation to the investment advisor, the receipt of the compensation is clearly disclosed to the advice recipient prior to any transaction based on the advice.

A recommendation will not fail to qualify for the exemption solely because the person, acting in good faith and with reasonable diligence, makes an error or omission in disclosing the required information if the disclosure occurs as soon as practicable, but not later than 30 days after the person knows of the error or omission.

The Department of Labor may not amend any rules or administrative positions promulgated under, or applicable for purposes of, the ERISA statutory definition of fiduciary. No rule or administrative position promulgated by DOL on the subject before the date of enactment of the bill but not effective on January 1, 2015, may become effective unless legislation specifically approving the rules or administrative positions is enacted no later than 60 days after the enactment of this bill.

The bill sets forth effective dates and transition rules.

### **Actions Timeline**

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- **Apr 20, 2016:** Reported (Amended) by the Committee on Education and the Workforce. H. Rept. 114-511.
- **Apr 20, 2016:** Placed on the Union Calendar, Calendar No. 391.
- **Feb 2, 2016:** Committee Consideration and Mark-up Session Held.
- **Feb 2, 2016:** Ordered to be Reported (Amended) by the Yeas and Nays: 22 - 14.
- **Dec 18, 2015:** Introduced in House
- **Dec 18, 2015:** Referred to the House Committee on Education and the Workforce.