



PERSONAL FINANCE

A retirement saver protection rule has died — for the second time. What it means for investors

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KEY POINTS

The Department of Labor fiduciary rule had raised the legal bar for brokers, insurance agents, financial advisors and others who advised investors to roll over assets from a 401(k) plan to an individual retirement account.

The Obama and Biden administrations each issued similar Labor Department fiduciary rules, aiming to rein in conflicts of interest among financial intermediaries.

Federal courts took the Obama- and Biden-era regulations off the books after the Trump administration stopped defending them.



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A rule that aimed to [raise investment-advice protections](#) for retirement savers has died in court — now, effectively, [for the second time](#).

Some legal experts said the outcome could lead unwary retirement investors to receive investment advice that's not in their best interest, and cause confusion about the legal obligations that brokers, insurance agents and other financial intermediaries owe to retail investors.

The undoing of the so-called fiduciary rule, [issued by the Department of Labor under President Joe Biden](#), is a deja vu of sorts, mirroring the outcome of a similar rule issued about a decade ago by President Barack Obama's administration, according to experts in retirement law.

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The Biden and Obama rules sought to crack down on conflicts of interest among brokers, advisors, insurance agents and others by creating a higher legal bar for their advice to retirement investors.

However, the Democrats' rules were ultimately scuttled, after President Donald Trump's administration — in its first and second terms, respectively — declined to keep defending them following losses in court battles against financial companies.





counsel at the Wagner Law Group, said of the series of events.

401(k) rollovers were a centerpiece of the rules



Julie Su, acting U.S. secretary of Labor, speaks during an event in the State Dining Room of the White House on Oct. 31, 2023. President Joe Biden announced a highly anticipated US Labor Department rule that would broaden the kinds of retirement advice subject to strict fiduciary standards under federal benefits laws.

Al Drago/Bloomberg via Getty Images

In broad strokes, a fiduciary is one who is legally obligated to act in the best interest of their clients. Practitioners such as lawyers and doctors owe a fiduciary duty to their clients or patients, for example.

Prior to the Obama- and Biden-era Labor Department rules, most recommendations to roll over assets from a workplace retirement plan such as a 401(k) to an individual retirement account were not considered fiduciary investment advice, said Fred Reish, a retirement law expert who is of counsel at Ferenczy Benefits Law Center.

In practical terms, Obama- and Biden-era Labor officials said they feared this led some intermediaries to recommend that retirement savers roll money into investments such as annuities and mutual funds that would earn the intermediary a high commission but weren't in



**VIDEO** 01:18**How to keep your money safe amid this economic and political uncertainty**

Such rollovers often happen around retirement age when a worker leaves their job, and may involve an investor's entire nest egg, perhaps hundreds of thousands or millions of dollars, which they might need for living expenses for the next several decades.

"The rollover decision is one of the largest financial decisions you'll ever have to make in your life," Reish said. "It's up there with buying a house."

Rollovers are also becoming increasingly popular as baby boomers enter their retirement years.

About 6 million people rolled a total of nearly \$700 billion into IRAs in 2022, according to the [most recent data](#) from the Internal Revenue Service. Those figures are up substantially from just five years earlier: About 4.7 million people rolled \$478 billion into IRAs in 2017, according to IRS data.

Why most rollover advice isn't fiduciary

A Labor Department regulation from 1975 created a five-part test to determine if someone giving advice to retirement savers — and earning a fee — was a fiduciary. Each part had to be satisfied in order for a financial intermediary to be subject to that higher legal bar.

One of the five prongs stated that the advice had to be regular, or ongoing.



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and don't engage in a continuous advice relationship with investors, experts said.



VIDEO 03:04

Why 401(k) hardship withdrawals are on the rise

“Since most rollover recommendations are one-time recommendations, that means they are typically — in almost all occasions — not fiduciary advice under ERISA,” Reish said, referring to the Employee Retirement Income Security Act, a federal law implementing minimum standards for workplace benefit plans.

Employers who sponsor a 401(k) plan already owed a fiduciary duty to the plan’s investors, courtesy of ERISA.

However, until the Obama-era Labor Department [issued its fiduciary rule in 2016](#), brokers largely had to satisfy only a “suitability” requirement — a lower legal bar — for rollover advice, experts said.





such as a person's income, risk tolerance and investment objectives — though not necessarily the best.

The regulation, and the [subsequent Biden rule in 2024](#), sought to raise the standard for rollovers and other aspects of financial advice to retirement savers.

How the fiduciary rules died

President Barack Obama speaks about the Labor Department fiduciary rule at the AARP headquarters in Washington, Feb. 23, 2015.

Jim Watson / Afp / Getty Images

The Biden and Obama fiduciary rules have a long and complicated legal history. They were each challenged by financial industry groups that opposed the regulation.

The U.S. Court of Appeals for the Fifth Circuit [vacated the Obama-era rule in 2018](#). The Trump administration [declined to defend it further](#), effectively killing the rule.

Something similar happened to the Biden-era regulation.

The Biden-era rule never took effect, following decisions by two federal courts in Texas in 2024 to delay its implementation.





[NOVEMBER 2025](#) after the Trump administration declined to pursue the appeal. The Texas district courts then ruled, in separate orders in March 2026, to vacate the regulation since no party was defending it, experts said.



VIDEO 04:10

Fight over fiduciary standard: What 401(k) participants should know

Insurance industry groups that were plaintiffs in the lawsuit [cheered the outcome](#) as a victory for consumers, calling the Biden-era rule a “legally flawed” regulation that “exceeded the Department’s authority.”

“The challenged regulation wrongly sought to impose ERISA fiduciary status on securities brokers and insurance agents when there was not a relationship of trust and confidence,” Daniel Aronowitz, assistant secretary of labor for employee benefits security, said in a statement.

“The Securities and Exchange Commission and state regulators regulate the activities of securities brokers and insurance agents and will continue to do so,” Aronowitz said.

What it means for investors



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Alistair Berg | Digitalvision | Getty Images

The old five-part test to determine fiduciary status [has been restored](#), the Trump administration said on March 18, following the end of the court battles.

“We are truly back to status quo,” said Oringer of The Wagner Law Group.

The pendulum “has swung back” in favor of the financial industry via the end of the fiduciary rule, he said. However, it’s unclear to what extent, or how quickly, financial companies would unwind any beefed-up processes they put in place for retirement investment advice, he said.

From a practical perspective, without a fiduciary rule that applies to rollovers, it will be difficult for retail investors to know what quality of advice their broker or agent is beholden to, said Reish, of the Ferenczy Benefits Law Center.

That’s because, in the absence of a Labor Department fiduciary rule, each intermediary has different regulatory regimes regarding rollovers, he said.

“[That] makes it virtually impossible for the typical [401(k)] participant to know what the standard is,” he said.



Their legal standard for advice falls on a spectrum, Reish said. Registered investment advisors generally have a higher legal bar than that of insurance agents, for example, he said.

Of course, this isn't to say that all, or even most, financial intermediaries are inherently bad.

But the regulatory landscape puts more of a burden on retirement savers to be on guard, he said.

"If you've got a good advisor, good for you: They're going to take care of you," Reish said.

An intermediary who doesn't have your best interest at heart is one who likely refuses to disclose their compensation, and isn't transparent about their services or how they are getting paid, Reish said. In that case, investors should "just run away and don't even think," he said.

"The vacated [Labor Department] rule reinforces an uncomfortable truth: Not all retirement advice is regulated the same way," Ben Rizzuto, a certified financial planner and wealth strategist at Janus Henderson Investors, wrote in a [recent analysis](#).

"Two advisors can offer similar rollover guidance under very different legal standards depending on licensing, compensation, and relationship structure," he wrote. "For investors, the burden





Make your broker, advisor or agent explain their compensation — how much they’re earning, where it comes from and what services they’ll provide you in the future, Reish said. Good advisors are fully transparent about these details, he said.

If possible, get those details in writing, he said; if you can’t, take notes of your conversation.

Beware of those who may try to claim a financial product or advice is free, Reish said. Insurance agents may say, for example, that the insurance company, not the customer, pays them the commission — which may be true from a literal standpoint, but isn’t true in practice since the money ultimately comes from the investor’s assets, he said.

“If someone tells you it’s free, run, because nothing is free,” he said.

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