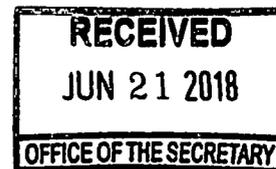


**34-83062** Apr. 18, 2018 Regulation Best Interest (Conformed  
to Federal Register version)  
File No.: S7-07-18  
Comments Due: August 7, 2018



**How is it possible that plan sponsors can be omitted from any rule that is imposed on a broker, advisor, or fee planner pertaining to 401k participants, IRAs or rollovers?**

**If anything, plan sponsors should be listed first on the list.**

**Plan sponsors are in direct contact with millions of plan participants each year.**

**Plan sponsors are viewed as experts regarding 401k plans even though the individual answering your questions from the call center does not have any securities background, related experience or FINRA licenses.**

**Plan sponsors are the first to be contacted when a participant has a question regarding their plan, investment choices and options available to them when considering retiring or after they have retired or separated from service. Again, individual answering their questions and providing advice does not have any securities related experience or license. And yes, plan sponsors do provide advice; although they are not supposed to, they do indeed give out advise that is above and beyond the educational guidelines that were referenced in the DOL Rule that allowed them to be considered exempt. We deal with Fidelity Investments a lot because the company plans that we work with are held at Fidelity. Did you know that Fidelity records all of their incoming calls. Something that the SEC, FINRA and the Department of Labor should explore and listen to. I am sure that these recordings would shock you and change your perception on allowing plan sponsors to be exempt from any future rulings.**

**Plan sponsors have the most influence on a participant's decision because of their "assumed" unbiased position even though most plan sponsors are pushing for a rollover as well. Take Fidelity Investments for an example. Why only make \$6 per quarter from a participant as a record keeping fee when they can "encourage" a participant to rollover their 401k plan to a Rollover IRA and collect commissions or in many cases (depending on the size of the rollover) management fees. Fidelity has been making a huge push lately encouraging plan participants to rollover their 401k plans into managed accounts held there at Fidelity. In many cases, recommending the exact same Fidelity funds that were available to the participant within their 401k plan. The only difference is now the client pays an annual management fee.**

Plan sponsors do not take a participant's age or financial status or company stock into consideration when recommending a rollover. We work with a lot of FPL and ATT employees that have their 401k plans held at Fidelity.

- I can't tell you how many of them were rolled out of their 401k plans prior to age 59 ½ under the illusion that a managed account (managed and run by Fidelity) would be in their best interest, not knowing that they lost their age 55 exemption for withdrawals taken directly from their 401k plan.
- I can't tell you how many of them had their FPL and ATT stock sold under the illusion that a managed account (managed and run by Fidelity) would be in their best interest, not knowing that they lost their NUA benefit.
- I can't tell you how many of them had their post-tax money rolled out of their 401k plan into a Roth IRA only to be penalized because they did not wait the five years to take a withdrawal.

Plan sponsors are in business to make money. Especially those firms that are investment companies that have products to sell such as Fidelity Investments, TIAA CREF and others. They are not a charity. They do not act as a plan sponsor out of the goodness of their hearts. The \$6 per quarter that they charge as record keeping fees does not pay for the TV commercials during the Super Bowl and to have their names on football stadiums. They are a plan sponsor to have those participants as prospects, to later solicit them to become an IRA client. They are like the wolf in sheep's clothing. Everyone is already on alert to watch out for bad brokers and advisors because of fraud cases like Madoff. However, no one is on alert to think twice about their plan sponsor trying to take advantage of them.

Whatever rule you consider should be equal, fair, and apply to everyone across the board be a broker: an advisor, a planner, a consultant, an agent (yes, life insurance agents should be included), a sponsor company, a third party administrator, an employer. If you interact with an individual, you have a client/customer/account, give advice, especially under the pretense of education, whether it be for a commission or a fee, paid directly or indirectly, retail or participant, the rule should apply to you.

You want to protect investors, you want to protect participants, you want to protect the public, please apply your rules to everyone in the financial services industry. There should not be any exclusions or omissions or exceptions for anyone for any reason. The bad apples in the world are not stupid. They use these loop holes to their benefit.

Signed a concerned investor and advisor.

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Iacurci, Greg. "SEC Rule Proposal Doesn't Include 401(k) Sponsors in 'Best Interest' Advice." *InvestmentNews - The Investing News Source for Financial Advisers*, [www.investmentnews.com/article/20180613/FREE/180619967/sec-rule-proposal-doesnt-include-401-k-sponsors-in-best-interest](http://www.investmentnews.com/article/20180613/FREE/180619967/sec-rule-proposal-doesnt-include-401-k-sponsors-in-best-interest).