



## Consumer Federation of America

February 1, 2016

The Honorable Kevin P. Brady  
Chairman  
Ways and Means Committee  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Sander M. “Sandy” Levin  
Ranking Member  
Ways and Means Committee  
U. S. House of Representatives  
Washington, D.C. 20515

Re: Oppose Anti-Retirement Investor Bill H.R. 4294

Dear Chairman Brady, Ranking Member Levin, and Members of the Committee:

This week the Committee is scheduled to mark up legislation (H.R. 4294, the “Strengthening Access to Valuable Education and Retirement Support Act”) that, in the name of providing a more “workable” alternative to the Department of Labor’s proposed fiduciary rule would actually weaken existing protections for retirement savers. We are writing on behalf of the Consumer Federation of America to urge you to vote no on this misguided bill.

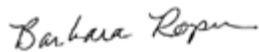
Everyone, including the sponsors of this bill, seems to agree that retirement savers who turn to financial professionals for advice deserve advice that serves their best interests. Instead of providing that assurance, however, this bill codifies loopholes in the definition of fiduciary investment advice that make it all too easy for financial firms and their advisers to avoid their best interest obligations. Firms would continue to be able to use disclaimers to avoid the best interest standard simply by indicating that the advice is not intended to be relied upon or that the firm is acting in a marketing or a sales capacity. Experience tells us that many firms will exploit these loopholes to the detriment of working families and retirees saving for a secure and independent retirement.

Even as it preserves loopholes that enable firms to avoid their fiduciary obligations, the bill weakens the standards that apply to advice that is subject to the bill’s so-called “best interest” standard. While H.R. 4294 includes a duty of prudence and a watered down duty of loyalty, it doesn’t provide any enforcement mechanism to enable IRA investors to hold advisers accountable when they fail to meet that standard. It also does nothing to eradicate the web of toxic financial incentives that encourage advice that is not in the best interests of customers. Instead, it relies exclusively on disclosures to protect retirement savers from the harmful consequences of such conflicts, an approach that has been shown time and again to be ineffective. Experience and simple logic tell us that, if we want advisers to act in the best interests of their customers, we have to stop paying and rewarding them for costly and harmful advice.

Finally, this bill includes a provision modeled on the controversial REINS Act, to require affirmative congressional approval for the DOL rule to be enacted. This is simply a backdoor way to kill the rule before we even get a chance to see the final product and evaluate the changes that have been made in response to the comment process. Approving a REINS Act style provision in this bill would not only undermine protections for retirement savers, it would also set a terrible precedent for other issues where efforts to strengthen consumer, health and safety, labor, and environmental protections are resisted by industry.

Working families and retirees saving to afford a secure and independent retirement deserve better. Because H.R. 4294 codifies loopholes in current ERISA regulations, weakens the standard that applies to retirement investment advice, and disrupts the regulatory process, we urge you to vote no on this ill-conceived, anti-investor bill.

Respectfully submitted,



Barbara Roper  
Director of Investor Protection



Micah Hauptman  
Financial Services Counsel