



# Federal Legislative & Regulatory Report

## April 2018

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### SEC Agrees to Move Forward with New Best Interest Standard

On April 18, the Securities and Exchange Commission (SEC) voted 4 to 1 in [favor of moving forward](#) with releasing a proposed rulemaking and interpretation focused on the standards of conduct owed by broker-dealers to retail customers and investment advisers to clients.

At a high level, the proposal considers three rule changes applying to investment advisers and broker dealers:

1. **Best interest standard of conduct for broker-dealers** – A broker-dealer making a recommendation to a retail customer would have a duty to act in the best interest of the retail customer at the time the recommendation is made, without putting the financial or other interest of the broker-dealer ahead of the retail customer. There would also be a restriction on the use of the term “adviser” or “advisor” by broker-dealers in specified circumstances.
2. **Fiduciary duty owed by registered investment advisers** – A new interpretation from the SEC would reaffirm, and in some cases, clarify certain aspects of the fiduciary duty that an investment adviser owes to its clients.
3. **Disclosure, Relationship Summary** – The SEC also proposed a new standardized short-form disclosure (4 pages max) that investment advisers, broker-dealers, and their respective associated persons, would be required to provide to retail investors. The “relationship summary” would highlight key differences in the principal types of services offered, the legal standards of conduct that apply to each, the fees a customer might pay, and certain conflicts of interest that may exist.

## House Passes Volker Rule Modification

The House passed on April 13 H.R. 4790, the [Volcker Rule Regulatory Harmonization Act](#), by a vote of 300-104. The bill amends the Dodd-Frank Act to streamline the regulatory authority over the Volcker Rule by granting the Federal Reserve exclusive rulemaking authority and identifying the primary federal agency for the sole examination and enforcement authority over an entity.

The bill also [exempts community banks](#) from the Volcker Rule if they do not have and are not controlled by an entity with \$10 billion or more in total consolidated assets and total trading assets and trading liabilities that are more than 5 percent of total consolidated assets. The legislation reflects a similar provision found in the [Financial CHOICE Act](#).

## House Passes IRS Improvement Package

On April 18, the House approved a [package of nine bills](#) touted as the first reforms in 20 years to modernize and improve the Internal Revenue Service (IRS).

In particular, the House voted unanimously to approve H.R. 5444, the [Taxpayer First Act](#). Introduced by Reps. John Lewis (D-GA) and Lynn Jenkins (R-KS), the bill aims to modify the organizational structure, enforcement procedures, appeals process, and customer service experience of the IRS.

Also passed were bills aimed at improving the cybersecurity at the IRS, strengthening identity theft protections, restricting the immediate sale of seized property by the Treasury, and reforming the practice of civil asset forfeiture. In addition to H.R. 5444, the bills the House passed include:

- [H.R. 5445](#) – The 21st Century IRS Act
- [H.R. 2901](#) – Volunteer Income Tax Assistance Permanence Act of 2017
- [H.R. 5440](#) – To require notice from the Secretary of the Treasury in the case of any closure of a Taxpayer Assistance Center
- [H.R. 5438](#) – To amend the Internal Revenue Code of 1986 to allow employees of the IRS and the Department of the Treasury to provide taxpayers information on low-income taxpayer clinics
- [H.R. 5446](#) – To amend the Internal Revenue Code of 1986 to restrict the immediate sale of seized property by Secretary of the Treasury to perishable goods
- [H.R. 5437](#) – To require the Secretary of the Treasury to establish a program for the issuance of identity protection personal identification numbers upon request
- [H.R. 5439](#) – To provide for a single point of contact at the Internal Revenue Service for taxpayers who are victims of tax-related identity theft
- [H.R. 5443](#) – To amend the Internal Revenue Code of 1986 to require electronic filing of the annual returns of exempt organizations and provide for making such returns available for public inspection.

## Speaker of the House Paul Ryan Will Not Seek Reelection

Associated Press [reported](#) on April 11 that House Speaker Paul Ryan announced he will not run for re-election and will retire next year, injecting another layer of uncertainty as Republicans face worries over losing their majority in the fall.

Speaker Ryan has been driving force behind the Republican majority's agenda, including the recent efforts to enact tax reform. The leading candidates to replace Ryan as the leader of the House Republican caucus are House Majority Leader Kevin McCarthy (R-CA) and House Majority Whip Steve Scalise (R-LA).

His decision to not return to the House after his current term concludes follows a growing number of members who have also decided to either retire or run for another office. The total number of Republican leaving the House this cycle is up to 39, with 18 Democrats also leaving office.

Representative Ryan expects to serve out his term as Speaker.

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## References and source material used in this publication

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SEC Proposes to Enhance Protections and Preserve Choice for Retail Investors in Their Relationships With Investment Professionals

<https://www.sec.gov/news/press-release/2018-68>

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Text of the Volcker Rule Regulatory Harmonization Act (H.R. 4790)

<https://www.congress.gov/bill/115th-congress/house-bill/4790/text>

Changes to Volcker Coming With or Without House Bill

<https://www.americanbanker.com/opinion/changes-to-volcker-coming-with-or-without-house-bill>

Text of the Financial CHOICE Act (H.R. 10)

<https://www.congress.gov/115/bills/hr10/BILLS-115hr10rfs.pdf>

House Passes First IRS Reforms in 20 Years

<https://www.govexec.com/management/2018/04/house-passes-first-irs-reforms-20-years/147578/>

Text of the Taxpayer First Act (H.R. 5444)

<https://www.congress.gov/115/bills/hr5444/BILLS-115hr5444rfs.pdf>

House Passes Bills to Revamp IRS

<https://www.thinkadvisor.com/2018/04/20/house-passes-bills-to-revamp-irs/?slreturn=20180409111040>

House Passes Series of Bills to Improve IRS

<http://thehill.com/policy/finance/383835-house-passes-series-of-bills-to-improve-the-irs>

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House Speaker Paul Ryan Announces He Will Not Seek Re-election

<http://www.kusi.com/house-speaker-paul-ryan-announces-will-not-seek-re-election/>

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## Keeping watch

You can find the most recent information on issues affecting governmental defined contribution plans, plan sponsors and plan participants in the Employer page of our plan website, NRSforu.com. In addition, we report guidance on legislative and regulatory activity relevant to government sector plans through:

- *Federal Legislative and Regulatory Report* – distributed monthly and posted in the Plan Sponsor section of NRSforu.com. It's available online and for download.
- *Plan Sponsor Alerts* – published as needed to announce breaking news.
- *Governmental 457(b) Guidebook*

## About this report

**BOB BEASLEY**, CRC, Communications Consultant, edits this report. Beasley brings 25 years of financial services communications experience to your plan. He has contributed to past editions of the *457(b) Governmental Guidebook*, edits countless newsletters and plan sponsor communications, and in 2001 authored “What you should know about the Economic Growth and Tax Relief Reconciliation Act of 2001.” He often voices Nationwide’s online presentations and telephone greetings.

Beasley has served on the Education and Communication Committee for the Plan Sponsor Council of America and as a member of the National Association of Government Defined Contribution Administrators.

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