EMBARGOED UNTIL 5:00 AM EDT, TUESDAY, OCTOBER 31, 2023

FACT SHEET: President Biden to Announce New Actions to Protect Retirement Security by Cracking Down on Junk Fees in Retirement Investment Advice

New proposal builds on Biden-Harris Administration's work to eliminate junk fees and promote competition—a key pillar of Bidenomics

America's families spend a lifetime saving so they can retire with dignity. But junk fees are chipping away at their savings, going to financial advisers with conflicts of interests instead of to American families, and making retirements less secure.

Right now, when a financial adviser provides retirement advice, they may be paid by the saver or by the firm who makes the investment product they recommend. Responsible retirement advisers deserve to be paid for their important work. But when a firm pays a retirement adviser more to recommend a specific investment product, that creates a conflict of interest that often leads to Americans selecting an investment product recommended to them that generates lower returns. And these conflicts of interest are meaningful: an adviser may receive a commission as high as 6.5 percent to recommend some insurance products. When the saver pays for advice that is not in their best interest, and it comes at a hidden cost to their lifetime savings, that's a junk fee.

These costs add up. Requiring advisers to make recommendations in the savers' best interest can increase retirement savers' returns by between 0.2% and 1.20% per year. Over a lifetime, that can add up to 20% more retirement savings—potentially tens or even hundreds of thousands of dollars per impacted middle-class saver that could otherwise have been lost to junk fees. For example, advice rooted in conflicts of interest regarding the sale of just one investment product—fixed index annuities—may cost retirees as much as $5 billion per year. This hurts workers, families, and the American economy.

That's why today, as part of his broader Bidenomics agenda to grow the economy from the middle out and bottom up, President Biden is announcing that the Department of Labor will propose a new rule to close loopholes and require that financial advisers provide retirement advice in the best interest of the saver, rather than chasing the highest payday. This step would minimize junk fees in retirement products, promote competition, and protect American workers' retirements. Specifically, the rule would:

- **Close loopholes so that recommendations to purchase any investment product must be in the savers' best interest.** Under the Securities and Exchange Commission's (SEC) Regulation Best Interest, advice to purchase securities like mutual funds must currently be in the saver's best interest. However, the SEC's authority and rule does not generally cover commodities or insurance products like fixed index annuities, which are often recommended to retirement savers. Instead, advice to purchase these insurance products is governed by state law, which often varies state by state. These inadequate protections and misaligned incentives have helped drive sales of fixed index annuities up 25 percent year-to-date. The proposed rule would ensure that retirement advisers must provide advice in the saver's best interest, regardless of whether they are recommending a security or insurance product and where they are giving advice.

- **Cover advice to roll assets out of an employer-sponsored plan like a 401(k).** Under the Employee Retirement Security Act (ERISA), the federal law governing retirement plans, advice that is provided on a one-time basis, such as advice to rollover assets from a 401(k) plan into an Individual Retirement Account (IRA) or annuity, is typically not presently required to be in the saver's best interest. Yet, one-time advice is often the most important advice the retirement investor will ever receive and affects roughly 5 million savers per year who are rolling their money out of 401(k)s and into IRAs. There is real money at stake. In 2022 alone, Americans rolled over approximately $779 billion from defined contribution plans, such as 401(k)s, into IRAs. The proposed rule will close this loophole to ensure this advice is in the saver's best interest.

- **Cover advice to plan sponsors about which investments to make available as options in 401(k)s and other employer-sponsored plans.** When advisers make recommendations to plan sponsors, including small employers, about which investments to include in 401(k) and other employer-sponsored plans, that advice is not subject to the SEC's Regulation Best Interest and right now is not required to be in the customer's best interest. Since most Americans primarily save for retirement through their employers, making sure the investments available to them are in their best interest is critically important.

The proposed rule builds on the Biden-Harris Administration's efforts to eliminate junk fees, putting cash back in the pockets of Americans. The Federal Trade Commission proposed a rule that would ban businesses from charging hidden and misleading fees and require them to show the full price up front and a "click-to-cancel" rule making it as easy to sign up for a service as to cancel it. The Consumer Financial Protection Bureau took action to require large banks and credit unions to provide basic information to consumers without charging fees. The Department of Transportation has proposed several new rules that would lead to more transparent pricing by airlines and reimburse customers when there are significant changes to their flight.

Today's announcement also builds on important actions the Biden-Harris Administration has taken to protect the retirement of hardworking Americans. In December 2022, President Biden signed Secure 2.0 into law, which encourages more employers to offer retirement plan benefits to their workers and makes it easier for Americans to save. Additionally, as part of the American Rescue Plan, President Biden signed the Butch-Lewis Emergency Pension Plan Relief Act, which protects the pensions of 2 to 3 million workers.

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