

## A higher standard: How new financial advice rules affect retirement plans

**During a time when people may need financial advice more than ever, new regulations seek to provide more protections for investors. We explore how these regulations may affect retirement plan participants and sponsors**

Whether markets are up or down, studies have consistently revealed the value of advice.

As the COVID-19 pandemic and its economic upheaval have triggered a period of deep uncertainty, reactions among Empower-serviced plan participants reveal two things:

### **People are seeking financial advice, education and guidance in greater numbers since the onset of heavy market volatility**

- Empower call volumes have increased 26%.<sup>1</sup>
- Appointments for one-on-one guidance have increased 109%.<sup>1</sup>
- Enrollments in Empower Advisory Services managed accounts have seen a consistent uptick.<sup>1</sup>

### **Those who receive financial advice have been more likely to stay on track with their long-term investing strategies**

- Do-it-yourself investors were nine times more likely to make significant asset transfers than Advisory Services investors.<sup>1</sup>
- Staying the course during a market downturn has historically proven more beneficial than abandoning long-term strategies.<sup>2</sup>

There is no guarantee provided by any party that participation in any of the advisory services will result in a profit.

In short, not only do many people want financial advice — research shows they generally make better decisions when they get it. And in an effort to offer more protections for investors who seek advice, the Securities and Exchange Commission (SEC) has enacted a series of rules — most notably, the new Regulation Best Interest (Reg BI) — that heighten the obligations of financial professionals who offer advice.

*Online advice and the managed account service are part of the Empower Retirement Advisory Services suite of services offered by Advised Assets Group, LLC, a registered investment adviser.*

*1 As of March 27, 2020. Empower recordkeeping data.*

*2 Empower Institute, "From Confidence to Concern: America's financial outlook in the face of a pandemic," March 2020.*

**In the simplest of terms, Reg BI requires those who provide financial recommendations to always act in a client’s best interest.**

Some may wonder, “Why wasn’t this always a requirement?”

The fact is, financial recommendations have long been regulated by a “suitability” standard, or a requirement that a recommendation is suitable given a person’s specific circumstances. Reg BI simply enhances that standard and requires financial professionals to satisfy specific obligations when making recommendations — including obligations related to standard of conduct, disclosures, conflicts of interest and regulatory compliance.

## What does Reg BI mean for retirement plan participants?

- Reg BI provides protections to participants and requires that the recommendations they receive from a financial professional or firm be in their best interest.
- A financial professional or firm can’t recommend an investments product unless they have determined through a reasonable process that the product is a good fit and in the participant’s best interest. For example, a retirement plan provider can’t recommend a proprietary managed account or IRA rollover to a participant without having performed an analysis to determine if it’s in the participant’s best interest.
- Prior to Reg BI, rollover recommendations to proprietary products were not subject to a best interest standard. Now they are.

## What does Reg BI mean for retirement plan sponsors?

- First, plan sponsors should determine whether a retirement plan provider will offer recommendations to participants. If yes, the plan sponsor should understand what types of recommendations and ensure that the provider has structures in place to comply with Reg BI. (If the plan is subject to ERISA, the provider may also be acting as an ERISA fiduciary.)
- If the retirement plan provider will not offer investment recommendations to participants, the plan sponsor should ensure the terms of the services agreement clearly state that only investment education will be provided, not recommendations or advice.

# Important questions to ask a potential retirement plan provider about Reg BI

**Will your representatives provide recommendations to participants?**

- If yes, do you have policies and procedures in place to comply with Reg BI?
- If yes, what types of recommendations are provided (e.g., wellness, saving, distribution, investing)?

**Will you act as a fiduciary with respect to rollovers and distributions?**

**Do your representatives have discretion with respect to the advice they provide, or do they use a standardized advice program maintained by your organization?**

- If they have discretion, how are representatives trained and supervised to help ensure they always act in a participant's best interest?
- If your organization maintains a standardized advice program, how was the program methodology designed and how is it reviewed and maintained on an ongoing basis?
- If you offer participants managed accounts today, will the provider use the same underlying engine to provide point in time advice?

**Can you provide copies of the recommendations and Reg BI disclosures you deliver to participants who have received a recommendation?**

**Are there any conflicts of interest or limitations on the advice you provide to participants (such as proprietary product limitations)?**

**Does your services agreement address recommendation services, and do you commit to providing the recommendations in compliance with Reg BI and as a fiduciary?**

**Do you charge any fees to the plan for advice?**



In these unprecedented and uncertain times, the bottom line is that many people want financial advice — and research shows that those who receive advice may achieve greater long-term financial success than those who don't. Reg BI is designed to provide increased protection and regulation in this regard, and it requires a greater level of care and accountability on the part of financial professionals.

### Reg BI and Empower

At Empower, our representatives' capabilities evolve as regulations evolve. Our representatives are trained to speak with participants and offer point-in-time best-interest recommendations on a number of topics, including:



#### **FINANCIAL WELLNESS AND SAVINGS**



#### **INVESTMENT ADVICE**



#### **ROLLING IN/ CONSOLIDATING ASSETS**

Consider all your options and their features and fees before moving money between accounts.



#### **DISTRIBUTION OPTIONS**

When developing recommendations, Empower takes into account plan design, historic market returns, assumed tax rates, earned income tax credits, and even earnings curve and spending changes after retirement. We want to help ensure people have the support they need to pursue a better financial future.

**Want to learn more? Contact your Empower representative today.**

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