

Congress of the United States
House of Representatives
Washington, DC 20515

July 21, 2015

The Honorable Thomas E. Perez
Secretary
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

RE: RIN 1210-AB32 – Comments on “Definition of the Term ‘Fiduciary’; Conflict of Interest Rule – Retirement Investment Advice”

Dear Secretary Perez,

We write to express our support for the Department of Labor’s proposal to update its decades-old, outdated fiduciary rule. This proposed change will better effectuate the intent of Congress to protect the precious retirement savings of hardworking Americans.

When the initial fiduciary rule was implemented forty years ago, the retirement planning and savings landscape was significantly different than it is today. At that time, the majority of retirement assets were held in defined benefit plans and managed by professionals. Employer-based 401(k) plans did not exist and Individual Retirement Accounts (IRAs) had just been established. Today, we live in a do-it-yourself retirement world with \$12 trillion in 401(k) plans and IRAs. These retirement accounts are owned by individuals who often have little to no experience and expertise in managing investment portfolios and must rely on experienced professional advisers to save for retirement. However, the rules governing the conduct of those advisers have failed to keep pace with the changed landscape.

As a result, loopholes have emerged, allowing certain so-called advisers to provide retirement advice without having to put their clients’ interests ahead of their own pursuant to a fiduciary duty. For example, a professional providing individualized investment advice about rolling over assets from a qualified retirement plan to an IRA does not have to abide by the fiduciary rules. Neither does an adviser who provides advice on a one-time basis. Because of loopholes like

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these, advisers may offer substandard, conflicted advice that insidiously erodes the savings of workers and retirees.

We appreciate the Department extending the comment period and its willingness to carefully review and consider all of the comments received. We anticipate that this proposed rule will be perfected as the regulatory process continues and trust that the final version of the rule will address any legitimate concerns that have been raised.

However, we also believe that some of the claims and objections that have been raised are overstated or outright false. Specifically, the proposed rule does not seek to harm small savers – the very people that this rule is designed to protect – nor does it do so inadvertently. Individuals with modest retirement savings stand to lose the most from conflicted investment advice as such advice could cost up to a quarter of the value of an individual’s savings over a 35-year period.¹

The Department’s proposal is a responsible effort to mitigate the competing financial interests faced by investment professionals by requiring those professionals to act solely in the best interests of their customers. First, the Department engaged with stakeholders for years and took into account rule changes and their impact in the United Kingdom. Accordingly, the Department did not ban commissions – the fee arrangement that the financial services industry suggests best serves small savers. Second, as discussed in the White House Council of Economic Advisers’ report, financial advisers should be able to provide the same quality of advice regardless of the fee arrangement, as the cost of that advice depends on certain resources, such as the adviser’s time and IT infrastructure.²

Given the retirement and savings crisis we face as a country, it is more important than ever that we protect the hard-earned money that Americans are saving for retirement. The Department’s proposal to update the antiquated fiduciary rule is one important mechanism to do just that. We strongly support the proposed, enforceable best interest standard and believe it would strengthen fiduciary protections for our constituents and millions of other middle-class families. We

¹ Council of Economic Advisers, *The Effects of Conflicted Investment Advice on Retirement Savings* 17-18 (Feb. 2015), available at: https://www.whitehouse.gov/sites/default/files/docs/cea_coi_report_final.pdf.

² *Id.* at 21.

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commend the Department for engaging in such a deliberative process with stakeholders and look forward to working with you as the Department finalizes this important consumer protection.

Respectfully submitted,

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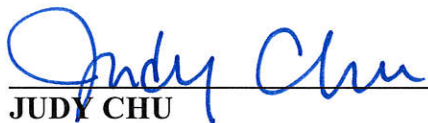
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