

Congress of the United States
Washington, DC 20515

December 7, 2016

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

Dear Secretary Perez:

We write to express our views and request a hearing on the Department of Labor's proposed waiver of disqualifications imposed on five Wall Street megabanks as a result of their criminal, long-lasting market manipulation. As we have in the past, we underscore the importance of bad actor disqualifications in the law to protecting our nation's workers and retirees. In particular, the Department's disqualification of qualified professional asset manager ("QPAM") status is crucial, where, as here, banks guilty of criminal misdeeds lack the trust and integrity necessary to continue advising millions of Americans who are saving for retirement.

In June of last year, we sent you a letter requesting that the Department hold a public hearing to more thoroughly examine the QPAM waiver requests made by four of these same banks, Barclays, Citigroup, JPMorgan and UBS. As we noted in that letter, the banks lied to clients, misappropriated client information, and conspired over five years to manipulate the U.S. dollar-euro exchange rate, thereby affecting the price of imported goods and investments held by pension funds. Similarly, in April 2015 and again in January 2016, Deutsche Bank was found to have engaged in market manipulation for its own benefit and to the detriment of financial markets here and abroad. Each of these banks is currently facing criminal convictions by the courts, which would trigger the loss of QPAM status absent a waiver by the Department.

We are disappointed that the Department, in determining whether to grant the banks' requests, has proposed an almost-immediately effective one-year waiver, without first convening a public hearing to grant the public adequate time to comment. However, at the same time the Department issued these one-year proposals, it also issued five-year proposed waivers to the banks with more opportunity for public comment through a longer comment period and the opportunity to request a hearing. Pursuant to those five-year proposals, and consistent with the Department's statutory duty, we request that within the next month the Department hold a hearing to ensure that the harmful impact of these banks' actions and the proposed conditions for granting them waivers are held up to public scrutiny.

In the proposals, the Department has sought to require each bank to indemnify and hold harmless any pension plan or IRA holder that suffers damages from future misconduct leading to a QPAM disqualification. We believe that this is a crucial condition that protects retirees and prevents banks from hiding behind claimed costs to investors to avoid disqualification. In addition, we

December 7, 2016

are pleased to see that the Department has proposed to require the banks to disclose any relevant deferred prosecution or non-prosecution agreement with the Department of Justice, rather than simply pending criminal convictions.

Notwithstanding the strength of these and other proposed conditions, the Department must give due regard to public opinion and consider whether these conditions are sufficient to enable it to protect retirees. For example, while the proposals would require disclosure of relevant deferred prosecution and non-prosecution agreements, there is no disclosure requirement for relevant settlements with or investigations by foreign or domestic regulators. Such information would alert the Department to all recidivist behavior and the depths of its culture of corruption.

Both the Department and the public will benefit from a full discussion of these and other potential conditions and issues that may have not yet been considered or that may merit additional debate. We therefore formally request that the Department of Labor immediately convene a public hearing to consider its proposed QPAM disqualification waivers.

Sincerely,

Shirine Waters

BWS

Elizabeth Han

Elizabeth Han

Michael E. Caprono

Michael E. Caprono

Stephen J. Lynch

Stephen J. Lynch

Keith Ellis

Keith Ellis

Rail M. Hayden