

MO BROOKS

5th District, ALABAMA

1200 LINDBERG DRIVE, FLOOR 1008
WASHINGTON, DC 20515
PHONE: (202) 225-4891
FAX: (202) 225-4892

www.mo Brooks.house.gov



Congress of the United States
House of Representatives

July 23, 2015

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

Dear Secretary Perez,

I am writing in regards to the regulatory "fiduciary" proposal being advanced by the Department of Labor ("Department") to express concerns that it will have widespread, unintended, adverse results. On behalf of constituents in the financial services industry in Alabama's Fifth District, I write to request your consideration of three changes to the proposal.

The Department's goal in updating the definition of "fiduciary" under the Employee Retirement Income Security Act of 1974 (ERISA) is to require advisors to act in the "best interests" of their clients. However, the wording of the Department's proposed rule would unfortunately limit guidance and access to guarantees at a time when investors need more of both, especially those Americans with low account balances.

We propose these three changes to the Department's fiduciary rule:

1. Explicitly and affirmatively clarify that the sale of proprietary products and receipt of differential compensation (e.g., commissions and health benefits) are consistent with the Impartial Conduct Standards required under the "Best Interest Contract Exemption" (BICE) and revised PTE 84-24.¹
2. Remove the "without regard to" language of the BICE and the Impartial Conduct Standards included in revised PTE 84-24,² and insert language that ensures consistency with the existing ERISA duty of loyalty under Section 404.
3. Provide clear guidance and examples regarding compliant sales practices regarding the sale of proprietary products and receipt of differential compensation.

Thank you for considering these requested changes which would better serve all investors, including lower and middle income investors and small businesses.

Sincerely,

Mo Brooks
Member of Congress

¹ Dept. of Labor, 80 Fed. Reg. 21,927, 21987 and 22020 (proposed April 20, 2015) (to be codified at 29 C.F.R. pt. 2509-10).

² Ibid.