

United States Senate

September 21, 2015

The Honorable Thomas Perez
Secretary
United States Department of Labor
Frances Perkins Building
200 Constitution Avenue, NW
Washington, D.C. 20210

Dear Secretary Perez,

I am writing to express my concerns with the Department of Labor's (DoL) proposal to significantly redefine the standards by which broker-dealers can provide investment advice to American consumers preparing for retirement. Millions of Illinois families are working hard every day to save for the long-term and I am worried that this over-reaching rule will limit their ability to receive investment advice, and discriminates against certain financial products, such as exchange-traded options in their retirement accounts.

You have expressly stated that the proposed rule includes a "principles-based" exception to the prohibited transaction rules that would preserve different business models. However, financial services providers have indicated that the exception is not principles-based and is unworkable in practice due to onerous and unreasonable requirements. As a result, the proposed regulation will effectively ban many business models, particularly those used to provide guidance and education to lower and middle income investors. In addition, the proposed rule will limit choice by restricting the types of investments that can be held in 401(k) accounts, IRAs and other workplace retirement savings plans.

I am concerned that without significant changes the rule will severely restrict access to affordable guidance for the same investors the rule seeks to protect. While I recognize and support efforts to better protect consumers from fraud and abuse, I do not support an unworkable standard that will restrict access and choice for millions of my constituents as they are preparing for their retirement.

Can you please explain how the Department plans to preserve the consumers' ability to use products such as exchange-traded options to save for their retirement, and will there be revisions to the rule?

I urge your careful consideration of this matter and look forward to your response.

Sincerely,



Mark S. Kirk
United States Senator