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Congress of the United States
House of Representatives
Washington, DC 20515-0514

September 23, 2015

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

Dear Secretary Perez:

I am writing to commend your leadership in tackling an important issue facing our seniors, retirees and retail investors. While not a panacea of protections – especially against bad actors – educated consumers are better prepared to select the right investments for their individual needs. Savers should be confident the educational tools they access are designed with their best interest in mind.

While the Department's proposed rule on the definition of the term "fiduciary" maintains many of the aspects of the Department's longstanding investment education carve out, it is my understanding that the proposed rule includes a new requirement that educational materials not identify any specific investment option available to the consumer. Like you, I am concerned that in some instances financial services firms may use educational resources to steer consumers to specific investment products with additional fees. However, I am also concerned that the proposed rule could potentially limit the distribution of important, and much needed, education that likely boosts confidence in retirement savings by helping consumers select investments suited to their unique retirement needs.

In order for retail investors to continue receiving useful educational materials and thereby educate themselves about the various options available to them, I urge the Department to modify any final rule such that general investment and retirement information, asset allocation models, and interactive investment materials that identify specific investment options continue to be classified as investment education, and not advice, so long as the options identified are provided on a fee-neutral basis. Compensation received by financial firms providing educational materials should not vary depending on which investment option the consumer ultimately chooses. This change would reduce the likelihood of educational materials being used to steer customers into higher cost products. It would also encourage companies providing educational services on a fee-neutral basis to continue offering important educational tools.

I am confident that you will agree with me that this change not only comports with the spirit, but also serves to strengthen, the Department's efforts towards protecting our nation's retirement savers. Thank you again for all your efforts on this important issue.

All the best,

A handwritten signature in black ink that reads "Jackie Speier". The signature is fluid and cursive, with a large initial "J" and a long, sweeping tail on the "er".
Jackie Speier
Member of Congress