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May 24, 2011

The Honorable Hilda Solis
Secretary
Department of Labor
200 Constitution Ave., NW
Washington, DC 20210

Dear Secretary Solis:

I am writing with respect to the Department of Labor's proposed regulation defining the term "fiduciary". In the absence of a full review of all relevant factors, I am very concerned that the regulation could result in everyday investors receiving less investment information at a higher cost.

In particular, I am concerned about the adverse effects of the proposed regulation on middle-income investors in workplace plans and IRAs. It is my understanding that the Department's proposed regulation would generally prohibit the commission-based compensation model used by broker/dealers who serve the IRA and workplace plan markets. This rigid change would eliminate access to investment services for millions of individuals.

In fact, a recent study by the Oliver Wyman Group concluded that over 7 million IRAs would lose access to an investment professional because of this regulation. The same report found that approximately 360,000 fewer IRAs would be opened each year.

I am deeply troubled by these potential effects, especially since the Department never analyzed the cost of the regulation with respect to IRAs. The Department itself admits in the preamble to the proposed regulation that it does not know what effects the regulation would have on the market. Therefore, it seems clear that the Department should start over.

The Department should withdraw the proposed regulation and wait for the SEC to finish the fiduciary study required by the Dodd-Frank Act. Upon completion of this study, the Department should coordinate with any rule set forth by the SEC so that there is one, clear rule that governs all types of investor accounts, eliminating any additional confusion. Before issuing the proposed regulation, the Department should have properly analyzed the costs associated with changes to the definition. Therefore, the Department should first evaluate the effect of changes to the rule on the market and on small investors. A rule of this magnitude should not be issued without thorough consideration and collaboration with other necessary agencies.

Opposition to this proposed regulation has been substantial. Members of Congress, both Democrat and Republican, have written to the Department about deeply held concerns. The Department's apparent plan to quickly implement this rule causes me, like my colleagues, to write and ask for pause.

If this regulation is not withdrawn and reevaluated, I am very concerned that there will be devastating effects on middle-income investors across the country. I ask that the Department look into these concerns and ensure that small investors are protected.

Thank you for your consideration. I look forward to your response.

Sincere regards,

Roy Blunt

Roy Blunt
United States Senator