Congress of the United States
Washington, DC 20515

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July 6, 2011

The Honorable Hilda L. Solis
Secretary
Department of Labor
200 Constitution Avenue, NW
Room S-2018
Washington, DC 20210

Dear Secretary Solis,

On October 22, 2010, the Department of Labor's (DOL) Employee Benefits Security Administration proposed a rule to amend the definition of "fiduciary" for purposes of the Employee Retirement Income Security Act of 1974 (ERISA) and section 4975 of the Internal Revenue Code of 1986. The DOL's proposal would reverse 35 years of case law and enforcement policy by eliminating the existing bright line regulatory test and replacing it with a regulatory structure that presumes persons to be an ERISA fiduciary. The DOL proposal does so in an effort to ensure that Individual Retirement Account (IRA) investors and participants in ERISA retirement plans receive advice based on reliable information that protects their interests. Unfortunately, the DOL's proposal will have significant unintended consequences by limiting access to retirement advice and service for the 19 million IRA account holders and participants in the more than 600,000 ERISA plans who are responsibly planning for their retirement.

Specifically, we are concerned that the rule will deprive middle-class families across Pennsylvania of the products and services they need to responsibly prepare for a secure retirement.

The proposal will do so by:

- Raising the fees associated with retirement investing.
- Raise the account minimums required to obtain access to personalized investment advice.
- Deprive investors of sources of information that facilitate wise investment decision making.

At a time when many Americans are struggling to ensure themselves of a secure retirement, the proposal could severely limit access to low cost investment advice. With more and more investors responsible for their own retirement planning and in need of advice and service, the DOL should be adopting policies that expand access. Unfortunately, we fear this proposal would have the opposite effect thereby disadvantaging those it aims to help.

As a result, we strongly urge DOL to implement a thorough review of the proposed regulation and the concerns we have raised. Such a review should include a comprehensive examination of the cost, market effects, and investor effects related to the regulation and a detailed analysis of the cost of the proposed rule with respect to IRAs.

We want to underscore our sincere concerns about the impact of this proposed rule on investors in Pennsylvania and nationwide. The regulation should not be finalized until these concerns have been thoroughly studied and reviewed.

Thank you for your consideration of our views on this critical issue in our communities.

Respectively,

Hon. Mike Fitzpatrick

Hon. Tim Murphy

Tom Marino

Hon. Tom Marino

Hon. Charles Dent