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September 11, 2015

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

Dear Secretary Perez:

As you work to finalize the proposed new definition of a fiduciary standard under the Employee Retirement Income Security Act (ERISA) of 1974, I urge you to make a number of important changes to ensure that middle- and low-income families throughout the United States do not lose access to affordable financial guidance.

As an advocate for financial literacy and the importance of saving throughout one's life, I share your goal of protecting financial product consumers from unscrupulous business practices that are not in their best interest. However, I am concerned that this rule, as currently drafted, would favor commission-based business models over fee-based models. Low- and middle-income savers cannot afford high fees for basic investment advice, and I fear that eliminating the commission-based structure would place financial advice out of reach for all but the wealthy. I am sure we agree that this is not an acceptable outcome.

Therefore, in issuing a final rule, I strongly urge the Department to clarify that the sale of proprietary products and receipt of differential compensation, such as commissions or health benefits, are consistent with the Impartial Conduct Standards required under the Best Interest Contract Exemption and revised PTE 84-24. In addition, I urge you to ensure the standard is consistent with the existing ERISA duty of loyalty under Section 404. Finally, the Department must provide clear guidance and examples regarding compliant business practices regarding the sale of proprietary products and receipt of differential compensation.

I thank you for your work on this important issue and look forward to your response.

Warm Regards



Richard L. Hanna
U.S. Representative