PENSION RIGHTS CENTER
PROTECTING AND PROMOTING RETIREMENT SECURITY
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July 20, 2011

Dear Member of Congress,

We are writing on behalf of the Pension Rights Center to urge you to support the Department of Labor's proposed regulation defining the term "fiduciary" under the Employee Retirement Income Security Act of 1974 (ERISA). The proposed regulation would replace an earlier regulation that artificially limited the definition of fiduciary, exposing retirement plan participants to serious conflicts of interest. The Department's proposed regulation is careful, balanced, and essential. The Pension Rights Center is the nation's only consumer organization devoted exclusively to protecting the retirement security interests of employees, retirees, and their families.

Certain segments of the financial industry are now demanding that the proposed regulation be withdrawn. They contend that the Labor Department has not given them adequate opportunity to comment on the regulations; that the Department has not deferred sufficiently to other agencies; and that the proposed regulation will make it impossible for them to continue offering investment advice to participants in 401(k) plans and IRAs

The reality is that the industry and other stakeholders have had ample opportunity to comment on the regulations. The Department has gone to extraordinary lengths to seek the input of the financial industry, consumer groups, trade associations, plan sponsors, individuals, and others. It has held two days of hearings and twice extended the time for comment, including an additional comment period after publishing complete transcripts of the hearings. It has met individually with all groups interested in the regulation, some on multiple occasions. And it has signaled numerous times that it will make changes to the proposed regulation and issue additional guidance in response to this unprecedented effort to solicit public input.

Further, the Department has consulted extensively with all other relevant governmental agencies.

Finally, the regulation does not prevent firms and brokers from providing investment advice to 401(k) participants and IRA holders. Rather, it merely requires them to give their primary loyalty to the working men and women who hire them and depend on their advice to build financial security for their retirement.

By reducing conflicts of interest, the proposed regulation will make the market for financial advice fairer, more transparent, and more efficient. Over the long term, the regulation should reduce investment and administrative fees and result in a better quality of advice. It would, in our view, be a disaster for the proposed regulations to be withdrawn or unnecessarily delayed. Therefore, we ask you to support the Department's efforts to complete this critical regulatory undertaking and oppose measures that would require the proposed regulation to be withdrawn or delayed. For additional information, please see our memo (http://www.pensionrights.org/sites/default/files/docs/110720_fiduciary_definition_memo.pdf).

Sincerely,

Karen Friedman
Executive Vice-President and Policy Director

Norman Stein
Senior Policy Advisor