AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

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LEGISLATIVE ALERT

April 15, 2015

Dear Representative,

On behalf of the more than 13 million people represented by the AFL-CIO and our 57 member unions, I urge you to oppose H.R. 1090, the misnamed "Retail Investor Protection Act," when comes before the Financial Services Committee for mark-up later this month. We view a vote for this bill as a vote to obstruct important protections for vulnerable investors and weaken workers' retirement security.

The committee will consider this legislation just as the Department of Labor (DOL) releases its long-awaited rule to protect workers and retirees from harmful investment advice by requiring retirement investment advisors to abide by a "fiduciary" standard -- putting their client's best interests before their own profits.

H.R. 1090 would delay and possibly thwart the DOL from promulgating these critically needed protections on retirement savings. At the same time, it would throw-up numerous roadblocks to efforts by the Security and Exchange Commission (SEC) to issue a rule raising the standard of conduct that applies to brokers when they provide advice to retail investors. Make no mistake: the intent behind this bill is to delay SEC rule and thereby also block DOL from carrying out its statutorily required responsibilities.

The DOL fiduciary protections are long overdue. With the shift from defined benefit plans to self-directed 401(k)s and individual retirement accounts, workers are increasingly on their own, bearing all the responsibility and risks for building adequate retirement savings. Faced with complex choices, they often turn to professional advisors for help, and they assume the investment advice they receive is in their best interest. But DOL's current investment advice regulations -- the basic rules that protect workers' retirement savings from deceptive and harmful practices -- were written in 1975 and haven't kept pace with the dramatic changes in the retirement landscape. Outdated rules allow financial professionals to legally put their own interests ahead of their clients. Too often, today's workers are steered into inappropriate or sub-standard investment products that are lucrative for the advisor but cost the worker precious retirement savings.

The costs of conflicted investment advice are real and they are significant. According to a recent report from the White House Council of Economic Advisors, American savers lose an astounding $17 billion per year as a result of retirement investment advice that does not put their best interest first.

H.R. 1090 would prevent DOL from moving forward with its rule to protect retirement savings until after the SEC has finalized new rules covering the duties of brokers to their customers. Having prevented any DOL action prior to SEC rulemaking, HR 1090 would then add about a dozen new analytic and reporting requirements that must be fulfilled before any SEC action to impose fiduciary duty on brokers. These requirements would not meaningfully contribute to the benefit of investors but would delay rulemaking and encourage additional litigation.

It is simply wrong to say that the activities of these two agencies would result in conflicted standards. The DOL has engaged in thorough deliberative rulemaking process, conducting extensive economic analysis and consulting industry groups and stakeholders. Additionally, DOL has worked in close coordination with the SEC throughout the draft rulemaking process; Secretary Perez has consulted with SEC Chairman Mary Joe White numerous times, agency staff have been in touch consistently and SEC has provided technical assistance to DOL. The DOL has statutory jurisdiction over retirement investment advice and has coordinated closely with the SEC to ensure that its rule does not conflict with any rule the SEC may eventually adopt. There is no justification for Congress to insert itself into this regulatory process.

We urge you to oppose H.R. 1090, an ill-disguised attempt to thwart two important rulemakings, the effect of which will be to allow the continuation of financial practices that harm American workers and undermine their retirement security.

Sincerely,

William Samuel, Director
Government Affairs Department

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