



November 16, 2015

Re: REJECT – Rider on Funding Bill or Any Legislation to Delay Final DOL Fiduciary Rule

Dear Senator:

The Financial Planning Coalition strongly supports the Department of Labor's (DOL) re-proposed rule that will require financial professionals to provide investment advice related to retirement income that is in the best interests of their clients. After a lengthy administrative process, the DOL is poised to issue a final rule to update a 40-year old rule to implement Congress' intent under ERISA that advice related to tax-preferred retirement savings be provided at a fiduciary level. **We urge you to reject any legislative proposal related to the DOL rulemaking – whether standalone legislation or appropriations “riders” on the omnibus funding bill – including any legislation based on a “declaration of principles” that are currently circulating in Congress. Congressional action is unnecessary and would derail, not advance, a final rule to require retirement advisors to serve their clients’ best interests.**

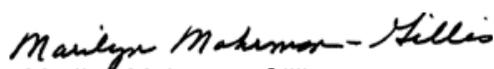
The DOL has engaged in a comprehensive, deliberative, fully open and transparent administrative rulemaking process. Over a lengthy five year period, the DOL has issued a re-proposed rule after incorporating an initial round of comments and extensive study, provided two additional comment periods for its latest re-proposed rule, conducted four days of public hearings consisting of 25 panels with 75 witnesses, conducted hundreds of meetings with interested parties, consulted with and received technical guidance from the Securities and Exchange Commission, testified before Congress and held many group and individual meetings with Members of Congress of both parties.

This extensive and robust rulemaking process is working precisely as intended. The DOL has publicly indicated that it plans to make changes to address issues raised by us and by other stakeholders. For example, the DOL publicly stated that it intends to simplify the mechanics and timing of the best interest contract and that it will review expanding the types of assets that would be allowed in retirement accounts and extending the transition time for firms to comply with the new rule. Any legislative effort directing the outcome of this open, transparent, and fully participatory administrative process – before the DOL has an opportunity to consider and incorporate public input into a final rule – is unnecessary and premature.

Congressional intervention in the middle of an administrative rulemaking, particularly through a funding bill (the only practical vehicle for this legislation), is not consistent with the principles of good governance or the principles of separation of powers provided under the U.S. Constitution. If Congress disagrees with a federal administrative agency's interpretation or implementation of a statute, the Administrative Procedure Act provides a process for Congressional review of a final agency rule before the rule becomes effective and is implemented.

Legislation based on the “declaration of principles” as proposed would weaken, not strengthen the fiduciary standard under ERISA. These principles refer only to disclosure of conflicts of interest; but are completely silent on a fundamental component of the fiduciary standard – an obligation to mitigate compensation practices and incentives that give rise to conflicts of interest. A final DOL fiduciary rule is the correct solution to ensure that advisors are truly required to serve their clients’ best interests. **We urge you to reject this or any other legislative proposal – whether stand alone or in the funding bill – that will serve to delay or defeat the promulgation of a final DOL fiduciary rule.**

Sincerely,



Marilyn Mohrman-Gillis
Managing Director, Public Policy
and Communications
CFP Board



Karen Nystrom
Director of Advocacy
FPA®



Geoffrey Brown, CAE
Chief Executive Officer
NAPFA