October 26, 2015

Re: OPPOSE H.R. 1090, the "Retail Investor Protection Act"

To Members of the House of Representatives:

The Financial Planning Coalition, which is comprised of the Certified Financial Planner Board of Standards (CFP Board), the Financial Planning Association® (FPA) and the National Association of Personal Financial Advisors (NAPFA), **supports the Department of Labor's (DOL) efforts to update its 40 year old rule to ensure that investors receive fiduciary advice on their tax-preferred retirement savings.** While there are modifications and clarifications that are needed to make it more operational, the DOL has indicated its intent to streamline the final rule.

H.R. 1090, the "Retail Investor Protection Act" sponsored by Rep. Wagner will not, as the name suggests, protect investors. Rather it would prohibit the DOL from fully realizing Congress' intent under ERISA to provide fiduciary advice to retirement savings until two months after the Securities and Exchange Commission (SEC) issues a rule under securities laws to extend the fiduciary standard to broker-dealers. This would in effect kill the DOL rule because the SEC is not required to issue a fiduciary rule for broker-dealers, it has yet to propose a rule (over five years since Congress authorized it to issue a rule), and it may never do so. In contrast, after years of study, the DOL produced a revised proposed rule accompanied by a comprehensive economic analysis, and provided an extensive notice and comment rulemaking process. It is now in the final stages of making long overdue and needed investor protection reforms for retirement savers.

A recent vote in the House Financial Services Committee (only one Democrat voted in support of H.R. 1090 in contrast to thirteen Democrats who supported the same bill in 2013) reflects a growing understanding by Democrats that the re-proposed rule will benefit – not harm – consumers, particularly small savers. In addition, almost 100 House Democrats signed a letter calling for sensible changes to the rule, while signaling support for allowing the DOL to proceed to a final rule. The engagement of Congress and stakeholders to improve the rule has been effective. Secretary Perez has stated publicly that the DOL will be making changes to clarify and streamline the re-proposed rule and address legitimate operational concerns.

The need for fiduciary-level advice for tax-preferred retirement assets – wisely recognized by Congress in 1974 – is even more important in today's retirement marketplace where retirement investors are largely responsible for their own retirement savings. **We urge Congress to refrain from Congressional intervention through H.R. 1090 or any other legislation that would delay, derail or interfere with this important and long overdue rule** to protect our Nation's retirement savers.

Sincerely,

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