FINANCIAL PLANNING COALITION

September 29, 2015

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

To Members of the House of Representatives Financial Services Committee:

The Financial Planning Coalition, which is comprised of the Certified Financial Planner Board of Standards, the Financial Planning Association® and the National Association of Personal Financial Advisors, supports the Department of Labor's (DOL) efforts to strengthen protections for working families and retirees by requiring the financial advisers they turn to for retirement investment advice to act in their best interests. While there are modifications and clarifications that are needed to make it more operational for advisers, the DOL's proposed rule is long overdue.

The "Retail Investor Protection Act" inappropriately links the DOL and the Securities and Exchange Commission (SEC) rulemakings by prohibiting the DOL from adopting a rule to protect America's retirement investors until two months after the SEC issues a final rule on whether brokers, when providing personalized investment advice, should be held to the same fiduciary standard as investment advisers. H.R. 1090 would also establish requirements for SEC rulemaking under Section 913 of Dodd-Frank Act that far exceed the regulatory impact analysis required under current law for proposed regulations, thereby setting requirements at a level designed to thwart an SEC rulemaking in opposition to Congress' intent under Section 913.

The SEC is not required to issue a final rule, has yet to propose a rule (almost five years since Congress authorized it to issue a rule), and may never do so. In contrast, the DOL, after years of study and an extensive economic analysis, has released a comprehensive proposed rule to close loopholes in its 40 year-old rule and extend long overdue fiduciary advice to plans, plan beneficiaries, and IRA holders under the Employee Retirement Income Security Act (ERISA).

The DOL is the expert agency, charged with implementing Congress' original intent under ERISA to provide fiduciary-level advice for tax-preferred retirement assets. That fiduciary principle – 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.

The need for a strengthened fiduciary rule under ERISA is long overdue. We urge Congress to refrain from congressional intervention – through H.R. 1090 or any other vehicle – and let the DOL do its job and promulgate a final rule to protect retirement investors.

Sincerely,

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