

Congress of the United States
House of Representatives
Washington, DC 20515-3003

July 21, 2015

The Honorable Thomas E. Perez
Office of the Secretary
Department of Labor
200 Constitution Ave. NW
Washington DC 20210

Dear Secretary Perez,

As the Department of Labor works to update the definition of a fiduciary standard under the Employee Retirement Income Security Act of 1974 (ERISA), we would like to share our concerns with the rule as currently drafted. We agree with the Department's goal of requiring investment advisers to act in the "best interest" of their clients. Unfortunately, the way the rule is currently drafted, it would effectively prohibit access to financial guidance for middle and low income families.

While the Department states its proposal will permit current business models, like proprietary products and commission-based compensation, the rule clearly seems to favor fee-based business models over commission-based. The business model that the Department is implicitly endorsing may not be in a saver's best interest.

Prohibiting sales of certain products would prevent the very agents who are most familiar with them from properly advising America's savers. Bad actors should face strict consequences, but arbitrarily limiting consumer choice prevents low and middle income savers from taking advantage of opportunities to develop long term financial security.

This rule casts doubt on the commission-based model entirely, which will limit the most affordable means of access to investment advice and products. This is particularly relevant for savers of modest means, who may not be able to afford fee-based compensation for investment advice. Simply earning a commission could be interpreted as running afoul of the "best interest" standard the Department is proposing. A marketplace without commissions is one with higher fees, fewer guarantees, and limited access to investment advice and products for low and middle income savers.

The rule's requirements discourage advisors from helping low balance savers. Advisors servicing a low balance IRA would face burdens not even placed upon those who service million dollar corporate plans with thousands of participants. Advisors in the low balance marketplace would be required to compile and report a) the future performance of each asset being sold over 1, 5 and 10 year periods – an impossible task with variable products and a direct violation of securities law; and b) all direct and

We believe the Department should clarify that the sale of proprietary products and commission-based compensation are consistent with the Impartial Conduct Standards required under the Best Interest Contract Exemption and revised PTE 84-24. The Department should ensure the standard is consistent with the existing ERISA duty of loyalty under Section 404. Finally, the Department should also provide clear guidance and examples regarding permitted sales practices in relation to the sale of proprietary products and commission-based compensation.

Again, we would like to reiterate our commitment to ensure that investment advisers act in the "best interest" of their clients. But this rule, as currently drafted, is unworkable. The standard favors certain business models over others with no regard for the individual saver's situation. We appreciate your consideration of this important issue and look forward to working closely with the Department on this issue.

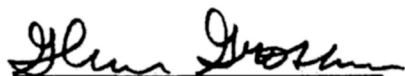
Sincerely,



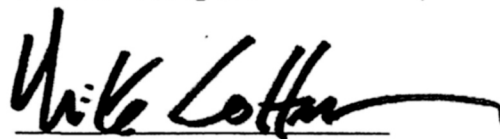
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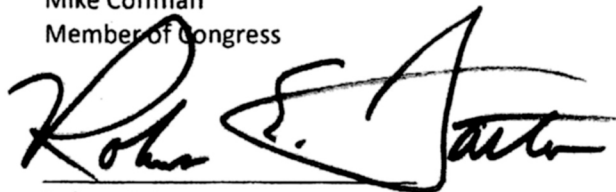
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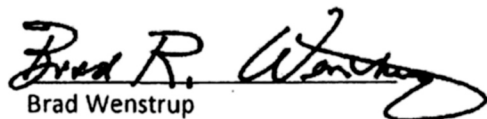
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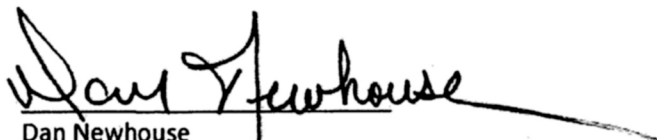
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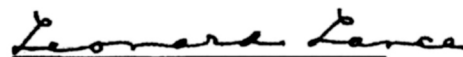
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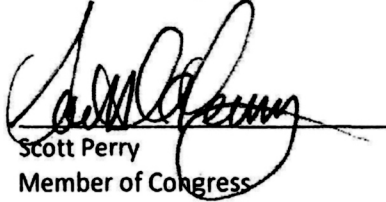
Leonard Lance
Member of Congress



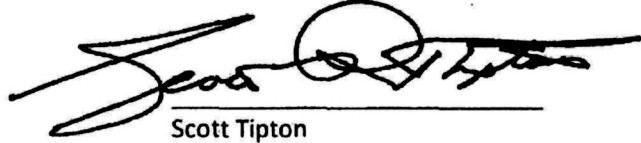
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