

September 22, 2015

Office of Regulations and Interpretations
Employee Benefits Security Administration
Attn: Conflict of Interest Rule
Room N-5655, U.S. Department of Labor
200 Constitution Avenue NW
Washington D.C. 20210

To whom it may concern:

The Maine State Chamber of Commerce is Maine's largest statewide advocacy business organization, representing a network of nearly 5,000 businesses across the state, from every business sector, and comprised of both our state's largest and smallest business. Collectively, these businesses employ over 100,000 Maine residents and represent a nearly one-sixth of the total number of people in our state's workforce today. Recently it has come to our attention that the U.S. Department of Labor has re-proposed a rule targeting the existing definition of fiduciary investment advice under the Employee Retirement Income Security Act of 1974 (ERISA). While we support establishing a best-interest standard under ERISA, the Maine State Chamber wishes to go on record expressing concerns with how the Department is seeking to apply this revised standard.

As proposed by the DOL in April, the new rule would vastly expand the definition of who would be deemed a fiduciary when providing investment advice to retirement investors and plans, both in the workplace and through IRAs. These changes would impact millions of people working hard to save for retirement and thousands of businesses committed to the financial health of their employees. The Department has accepted an enormous responsibility and it is imperative to get it right. We believe a number of unclear or unworkable sections of the proposal must be fixed to ensure investors are protected and access to investment guidance and advice is preserved.

For the sake of our constituents, we would like to focus our comments on problems with how the proposed rule treats small businesses and, ultimately, their employees who are saving for retirement. Under the proposed rule, a small business owner has limited options. They can select the investment options themselves, but in doing so they subject themselves to fiduciary liability. Thus a business owner becomes liable for that decision making since ERISA holds fiduciaries to a best interest standard. In most cases, small businesses in Maine are experts in many things, but most would tell you investment specifics are not among them. Second, a small business owner could conduct a diligent search, subject to fiduciary liability, for a qualified independent third party to do the selection for them, but this would result in an

additional fee. We would ask, shouldn't we be finding ways to encourage businesses to offer their workers retirement plans, rather than adding higher costs when they do?
Are our concerns valid? According to an industry survey,

- In 2014, close to 50% of small businesses surveyed indicated that without meaningful assistance in selecting investment options to offer their employees, their likelihood of offering a plan would be reduced.

• Almost 30% of those small businesses with a plan indicated that it was at least somewhat likely that they would drop their plan if this regulation were to go into effect.

It is clear to the Maine State Chamber that the DOL's proposal is likely to have a substantial impact on small businesses by dramatically changing the traditional manner in which advisers and service providers deliver services to them and their employees. If these advisers and providers are no longer able to offer these services to small businesses in an affordable manner, it is the employees of these small businesses – the very individuals the rules purport to benefit – that stand to lose. In addition, if small businesses can no longer afford to offer retirement benefits, they will be less competitive with larger employers, placing the backbone of this state's economy – our small businesses -- at a competitive disadvantage when it comes to recruiting and retaining quality employees.

A number of aspects of the proposal appear unworkable in actual practice, and would negatively impact how advisors assist small businesses in providing retirement benefits for their employees. In particular, the change would impact two of the most popular retirement savings vehicles for small businesses: Simplified Employee Pension IRAs (SEP IRAs) and Savings Incentive Match Plan for Employees IRAs (SIMPLE IRAs). It should be noted that in Maine, 80% of all Maine employers are made up of business that employ 20 or fewer people.

Maine employers face enough challenges attracting and retaining workers, particularly younger workers, to our state. Placing roadblocks on a small business's ability to offer competitive, easy to manage retirement plans to their workers will only exacerbate their struggles. It will make them less able to compete for workers employed by larger companies either located in Maine or outside our state.

In addition, it seems that the proposed rule actually limits an individual employee from accessing affordable financial planning services and resources. In today's complex investing world, shouldn't individuals have every avenue open to them for advice from the most knowledgeable resources? We think so, but this proposed rule would reduce choices and the availability of useful advice and guidance.

We understand and support the need for transparency and accountability when it comes to an individual's financial future, however it is our position that the proposed rule places too many of our small businesses at a competitive disadvantage, and inhibits the availability of best practice investment advice and counseling.

Thank you for your consideration of our concerns. We appreciate the opportunity to provide you with our comments, and would be willing to work with you in any way that you may find helpful on an issue that is critical to many of our smallest businesses and citizens.

Sincerely,

A handwritten signature in black ink, appearing to read "Dana F. Connors", with a stylized flourish at the end.

Dana F. Connors
President & CEO
Maine State Chamber of Commerce