

# United States Senate

WASHINGTON, DC 20510

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May 18, 2011

Secretary Hilda L. Solis  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, DC 20210

Chairman Mary L. Schapiro  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549

Chairman Gary Gensler  
U.S. Commodity Futures Trading Commission  
1155 21st Street, NW  
Washington, DC 20581

EXEC. SECRETARIAT  
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DEPT. OF LABOR  
WASH. D.C. 20210

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Dear Secretary Solis and Chairmen Shapiro and Gensler:


We are writing today regarding the work the Department of Labor (the "Department"), the Securities and Exchange Commission ("SEC"), and the Commodity Futures Trading Commission ("CFTC") are doing with respect to fiduciary standards and business conduct standards. We understand the desire to update the definition of "fiduciary" and agree that the definition of fiduciary needs to be broad enough to protect American workers and investors. If that definition is too broad, however, advisors might well withdraw from important services—ultimately resulting in less choice and higher costs for the investor.

It is critical, therefore, that any new rule or standard be balanced. For example, we are concerned that the Department's proposed re-definition of "fiduciary" under the Employment Retirement Income Security Act of 1974 ("ERISA") might unintentionally—and unnecessarily—restrict the availability of investment education and drive up costs. Similarly, we understand that the exemption process should go hand in hand with the Department's rulemaking. In light of these and other concerns, we believe it would be beneficial to all involved if you could provide greater transparency regarding the modifications and clarifications that are currently being considered. Perhaps the best way to ensure an appropriate balance and increase transparency would be to re-propose the ERISA rule to enable all interested parties an appropriate opportunity to formally comment.

Of course, it is also essential that any new rule or standard be coordinated among regulatory authorities. In this regard, we would be interested in information concerning the steps that the Department, the SEC, and the CFTC have taken to share relevant information, avoid potential conflicts, and prevent a duplication of effort. Workers and investors will not benefit from the divergent and confusing duties that will likely result from non-coordinated efforts.

The Honorable Hilda L. Solis  
The Honorable Mary L. Schapiro  
The Honorable Gary Gensler  
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We appreciate your efforts and look forward to your response.



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John F. Kerry  
United States Senator

Sincerely,



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Jeanne Shaheen  
United States Senator