

Congress of the United States
Washington, DC 20515

May 27, 2011

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

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DEPT. OF LABOR
WASH. D.C. 20210

Dear Secretary Solis,

We write in regard to the draft rule proposed on October 22, 2010 by the Employee Benefits Security Administration (EBSA) on the Definition of the Term "Fiduciary" with respect to the provision of investment advice. While we support the re-examination of circumstances that would trigger fiduciary status as a result of abuses and recognize the significant changes in the retirement plan and financial industry over the past 36 years, we have concerns with the potential unintended consequences for employees, investors, service providers, and Employee Stock Option Plan (ESOP) participant companies we represent.

We strongly support protecting individuals from misleading investment advice or stock valuations and commend DOL for extending the comment period on this rule and holding a public hearing. We respectfully urge DOL to address stakeholders' concerns and ensure employees' and investors' best interests are protected and ethically acting employers and service providers are not unintentionally harmed. We are under the impression DOL is willing to work to address such concerns and commend your willingness to work with stakeholders and Members of Congress to that effect.

Specifically, we applaud the attempt to provide certainty to employees, investors, employers, and the financial services industry by updating the tests for investment advice as they relate to fiduciary status. We also believe that the more investment education and information available, the more likely and easier it is for employees and investors to make informed decisions. Therefore we have concerns the proposed rule could be understood to limit the opportunities for employers and service providers to provide investment education and information, possibly even eliminating customer call-in services and online or personal educational tools for example.

We are also concerned with the DOL's seeming lack of clarity regarding the effects of the proposed rule and would point to statements in the rule to highlight concerns about significantly increased costs, a lack of understanding of the number of companies that would be affected, and a potential limitation of product availability in the market. We urge DOL to coordinate with the other agencies to more fully understand the marketplace and the rules potential effects.

Further, we ask DOL to explore the possibility of issuing a revised draft rule through an expedited process so long as it would not unnecessarily delay the process of rule-finalization in order to incorporate stakeholder comments, provide specific examples of circumstances giving rise to fiduciary status, and provide clarity and certainty to stakeholders on this potentially major change to their business, how employees and investors access and receive information, and ESOP valuations. We also hope DOL will assure stakeholders that legitimate comments will be addressed to ensure employees and investors are protected and the rule will be administrable and reasonable.

We know that you share our desire to protect employees and investors from misleading and abusive investment advice, or stock valuations in the case of ESOPs, and hope that the employers and service providers who share this view are not unintentionally hurt by the proposed rule. Thank you for your time and consideration of this matter and we look forward to working with you to ensure employees and investors interests are protected.

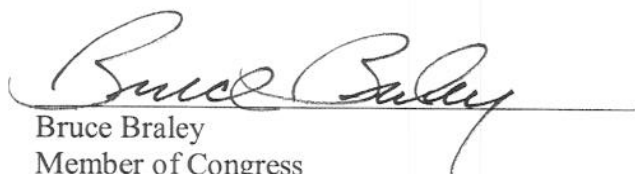
Sincerely,



Dave Loeb sack
Member of Congress



Leonard Boswell
Member of Congress



Bruce Braley
Member of Congress