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BUDGET COMMITTEE

Congress of the United States
House of Representatives

Washington, DC 20515

June 16, 2011

FRANK GUINTA

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The Honorable Hilda Solis
U.S. Department of Labor
Frances Perkins Building
Third Street and Constitution Avenue, NW
Washington, DC 20210

Dear Secretary Solis:

I am writing to express concerns regarding the Department of Labor's (DOL) proposed definition of the term "fiduciary" in regards to the Employee Retirement Income Security Act of 1974 (ERISA) and for purposes of certain Internal Revenue Code provisions affecting IRAs and similar arrangements.

I believe all members of Congress share the same objective: we all want to help Americans invest prudently for their retirement. However, I am concerned about reports that DOL's proposed regulation could actually have the opposite effect, by cutting off millions of middle-income Americans from access to investment services. For example, a recent study concluded over seven million IRAs would lose access to an investment professional by reason of regulation. Other plan and IRA participants would be forced to pay far more – double in many cases – for investment services.

This is a very serious issue that needs to be studied carefully. In that regard, I am very concerned that DOL did not do cost analysis regarding the effects on IRAs before proposing this regulation. I am also concerned about DOL's own uncertainty regarding the effects of this type of regulation on the market.

As you move forward with this rule, I ask you to continue to solicit additional feedback from stakeholders, particularly with respect to the rule's effect on IRAs. I also believe it is important to perform the necessary cost/benefit analysis with respect to the regulation.

Finally, I believe it is important for the industry to have adequate time to come into compliance with DOL's final regulation. Therefore, an extended effective date would be appropriate for provisions of the regulation that involve significant behavioral or systems adjustment.

I look forward to your response. Should you have any questions, please contact my staff.

Sincerely,

Frank Guinta
Member of Congress