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# CONGRESS OF THE UNITED STATES



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CONGRESSMAN  
TOM LATHAM

June 27, 2011

EXEC. SECRETARIAT  
OSEC-DOL  
DEPT. OF LABOR  
WASH., D. C. 20210

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

Dear Secretary Solis,

I am writing with regard to the Employee Benefits Security Administration (EBSA) draft proposal, published on October 22, 2010, defining the term "fiduciary" for purposes of the Employee Retirement Income Security Act (ERISA). Specifically, the proposal would rewrite the regulatory structure to broadly define and substantially increase the categories of service providers who are deemed fiduciary.

It is critical that any changes to the current regulatory structure governing investment relationships in the retirement planning marketplace be done after thoroughly considering all the implications of such changes. With that said, I am very concerned that the current draft proposal would have significant unintended consequences for the financial services sector of our economy and for Americans planning for or currently in retirement. As you are aware, these concerns were highlighted in the comment letters sent to the Department of Labor (DOL) in response to the proposed regulation, and in the testimony presented to the EBSA on March 1<sup>st</sup> and 2<sup>nd</sup>. I share the concerns expressed regarding increased costs and burdens associated with ERISA plans and Individual Retirement Accounts (IRAs), limits on access to advice and investment information for consumers, as well as increased compliance and fiduciary liability costs to service providers.

I request that the DOL suspend its rulemaking process until questions concerning the full cost and market impact of the proposal are thoroughly analyzed and understood. Additionally, I urge the DOL to coordinate with other federal regulators to more fully understand the marketplace and the potential undesirable consequences of the rule. If the DOL decides to continue with the proposal, then I ask that you allow it to be re-proposed for public comment before any of the regulations are finalized.

Thank you for your time, attention and consideration to this very important matter.

Sincerely,

Tom Latham  
Member of Congress