August 31, 2015

The Honorable Thomas E. Perez  
Secretary  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210

Dear Secretary Perez,

I write in opposition to the Department of Labor’s (DOL) proposed rule (RIN 1210-AB32) that would change the regulatory definition of a “fiduciary” under the Employee Retirement Income Security Act (ERISA).

I have heard from constituents who fear that the “fiduciary” rule proposal will change how Americans seek help to make their investment decisions in such a way that will only act as a hindrance to seeking sound financial advice and the relationships that they might currently have with their financial advisor.

Moreover, I believe the proposed rule as currently written is unworkable, will result in less choice for consumers, and would have an adversarial impact on the retirement savings advice market on the whole. The proposed rule imposes further burdens on those individuals who have existing relationships with their financial advisors. I believe that it is vitally important for Americans saving for retirement to have access to quality information from individuals whom they trust.

Given the many concerns from stakeholders and bipartisan members in Congress on this issue, I respectfully request that you make specific changes to the “fiduciary” rule to ensure that it does not bring harm to the retirement savings advice market while protecting all Americans saving for retirement.

Requested changes include: 1) explicitly clarify that the sale of proprietary products and receipt of differential compensation are consistent with the Impartial Conduct Standards required under the BICE and revised PTE 84-24; 2) remove “without regard to” language from Dep’t. of Labor 80 Fed. Reg. 21,927, 21987, and 22020 (proposed April 20, 2015) and insert language that ensures consistency with the existing ERISA duty of loyalty under Section 404; and 3) DOL should provide clear guidance and examples regarding compliant sales practices regarding the sale of proprietary products and receipt of differential compensation.
Should you have any questions regarding this request, please contact my Washington, D.C. office at (202) 225-2701.

Sincerely,

Markwayne Mullin
Member of Congress