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Congress of the United States
Washington, DC 20515

April 20, 2011

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

Dear Secretary Solis:

We are writing with respect to the Department of Labor's proposed regulation defining the term "fiduciary". We share the Department's perspective that it is critical to protect individuals from misleading investment advice.

It is precisely the importance of this regulatory project that is causing us to write. We believe that it is vital that this project be completed in a thorough manner that fully considers all perspectives. In the absence of a complete review of all relevant factors, we fear that the regulation could result in investors, especially middle-income investors, receiving far less investment information or experiencing a very significant increase in the cost of such information.

We applaud the Department for extending the comment period and holding a hearing on this matter. However, the Department's own uncertainty regarding the effects of the proposed rule gives us tremendous cause for concern. The implications for small service providers, potential increases in liability exposure and costs for service providers, and cost-benefit information should all be closely studied, considered and then explained before any further action is taken.

In light of the uncertainty expressed by the Department and the significant amount of concern expressed in the comments and at the hearing, we urge you to take the time necessary to do a thorough review of the proposed regulation and the issues and concerns raised about the proposal, including cost and market effects related to the proposed regulation. Additionally, we encourage an analysis of the cost of the proposed regulation with respect to IRA's.

It may be appropriate for the Department to consider re-proposing the regulation. A re-proposal would ensure that interested parties can review and comment on the numerous changes expected in the proposed regulation. Re-proposing the regulation would also allow the Department of Labor to work in a more harmonized manner with the SEC, the CFTC and the Treasury Department, all of which have responsibilities related to your Department's proposed regulation.

Some contend that the effect of this regulation would, (1) restrict access by middle-income individuals to investment information with respect to plans and IRAs, and (2) eliminate pension plans' ability to use swaps to manage enormous risks that can affect the plan sponsor's financial health. This level of concern warrants a careful and deliberate process.

Your consideration of our concerns would be deeply appreciated.

Sincerely,

Blaine Luetkemeyer
Member of Congress

Emanuel Cleaver
Member of Congress

JoAnn Emerson
Member of Congress

Wm. Lacy Clay
Member of Congress