

United States Senate

WASHINGTON, DC 20510

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April 21, 2011

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

EXEC. SECRETARIAT
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DEPT. OF LABOR
WASH., D.C.

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Dear Madam Secretary:

We are writing today with respect to the U.S. Department of Labor's proposal to redefine when someone acts as a "fiduciary" for purposes of the Employee Retirement Income Security Act of 1974 and for purposes of certain Internal Revenue Code provisions affecting the advice given to individual retirement accounts and similar arrangements.

We understand the Department's desire to update the definition of a fiduciary. The definition of a fiduciary should to be broad enough to ensure that advice provided to retirement plan participants, plan sponsors, and individuals is designed to serve their interests. However, the Department should also consider timely access to investment education, information, and affordable investment products and services. Accordingly, we encourage the Department to fully consider all relevant issues raised by the public prior to finalizing its rules in this area.

We also encourage the Department to consult with all relevant government agencies. For instance, the staff of the Securities and Exchange Commission has recently completed a study concluding that retail investors are often confused by different standards of care that can apply to broker-dealers and investment advisors. An ideal would be for a single, high-quality fiduciary duty definition for investors, plan participants, and beneficiaries, regardless of the specific accounts or assets involved. In any event, great care should be given to ensure that agencies promulgate rules that are complementary, and not contradictory.

In short, the Department's effort is an important one and all agencies should work together to ensure that advice provided by investment advisors is in best interests of the investor.

We appreciate your consideration of these comments within all applicable rules and regulations.

Sincerely,



Kay R. Hagan
United States Senator



Jack Reed
United States Senator



Michael Bennet
United States Senator



Sheldon Whitehouse
United States Senator

cc: The Honorable Timothy F. Geithner, Secretary, U.S. Department of the Treasury
The Honorable Mary L. Schapiro, Chairman, U.S. Securities and Exchange Commission
The Honorable Gary Gensler, Chairman, U.S. Commodity Futures Trading Commission