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United States Senate

COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP
WASHINGTON, DC 20510-6350

TELEPHONE: (202) 224-5175 FAX: (202) 224-5619

DONALD R. CRAVINS, DEMOCRATIC STAFF DIRECTOR AND CHIEF COUNSEL
WALLACE K. HSUEH, REPUBLICAN STAFF DIRECTOR

June 2, 2011

The Honorable Hilda L. Solis
Secretary
Department of Labor
200 Constitution Avenue, NW
Room S-2018
Washington, DC 20210

Dear Secretary Solis,

As Chairwoman of the Senate Committee on Small Business and Entrepreneurship, I am contacting the Department regarding the proposed rule expanding the definition of fiduciary for purposes of Title I of the Employee Retirement Income Security Act of 1974 (ERISA). Specifically, I am concerned that the rule, as proposed, lacks transparency and accountability with regard to its economic impact on small business owners. The proposed rule also appears to be unduly burdensome to small firms that provide advisory services to retirement plans and IRAs.

During the Committee's March 31 hearing on the Administration's 2012 Small Business Administration budget request, I reaffirmed our commitment to eliminating regulatory burdens that disproportionately impact small businesses. While I understand the need to expand the current definition of fiduciary, the Department has failed to properly consider the economic impact of the rule on investment advice firms that service small retirement plans and IRA accounts. Furthermore, I am concerned that small plan sponsors will be unable to absorb the significantly increased costs for plan investment advice that will follow the new rule.

At a time when many small businesses owners are struggling to provide for a secure retirement for their employees, the Department's fiduciary proposal could severely limit access to cost-effective retirement plan investment advice. Given that half of all private sector employees are employed by small businesses, the Department should adopt policies that expand access to retirement planning services for small businesses that voluntarily chose to sponsor retirement plans. Unfortunately, I fear this proposal would have the opposite effect, disadvantaging small businesses and small investment advisors that have limited compliance resources.

As a result, I strongly urge the Department to conduct a thorough review of the proposed regulation and its impact on small businesses that sponsor employee retirement plans or offer

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retirement plan advisory services. The Department should also solicit comments from small business owners and plan sponsors on the compliance burdens associated with the proposed rule.

I want to underscore my sincere concerns about the impact of this proposed rule on small businesses in Louisiana and nationwide. The regulation should not be finalized until these concerns have been thoroughly studied and reviewed.

Sincerely,

A handwritten signature in cursive script that reads "Mary L. Landrieu". The signature is written in dark ink and is positioned to the right of the word "Sincerely,".

Mary L. Landrieu
United States Senator