The Honorable Phyllis Borzi  
Assistant Secretary  
Employee Benefits Security Administration  
U.S. Department of Labor  
200 Constitution Ave., NW  
Washington, DC 20210-0001

Dear Secretary Borzi:

I am writing today to express my concerns with the U.S. Department of Labor’s (DOL) proposed rule change to assign fiduciary status to any individual providing advice to a retirement plan or its participants for compensation.

This proposed rule would change the five-part test that the DOL has used for the past 35 years to determine who qualifies as a fiduciary under the Employment Retirement Income Security Act (ERISA). I am concerned that this would discourage advisers and broker-dealers from providing plan sponsors and participants with general investment advice or education. This could be harmful to small investors who look to discount brokers and broker-dealers for general advice about their retirement accounts.

I am pleased that the DOL has postponed the implementation of this rule and is seeking comment from many industry experts; however, I am concerned with this and many other wide-sweeping changes to established rules by executive agencies without Congressional direction or legislative action. I encourage the DOL to work closely with Congress on addressing this issue and look forward to your response.

Sincerely,

Tim Griffin  
Member of Congress