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June 24, 2011

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

Dear Secretary Solis,

I am writing in regard to the Department of Labor's proposed change to the term "fiduciary" with respect to Employee Retirement Income Security Act (ERSIA) plans. I am very concerned that this proposed change will have serious negative consequences for small retail investors saving for retirement.

Currently retail investors saving for retirement in Individual Retirement Accounts (IRAs) have a wide array of options to choose from in determining which level of service they would prefer to receive from their investment firm. Some investors chose to make most of their decisions independently, receiving only minimal advice from an investment professional. Others choose to have a closer relationship with their investment advisor, which often confers higher costs.

If the proposed rule is put into effect as currently written, investors with small accounts could find themselves choosing between two unappealing options; they could either chose to have a standard brokerage arrangement, where there will have to make all investment decisions independently, or enter into a fiduciary arrangement with their investment professional, an option that may be extremely cost prohibitive. This could have the effect of cutting off small investors from the advice they need to make good investing decisions at a reasonable cost.

In addition, I am also concerned that the proposed rule could have a serious adverse effect on small independent advisor firms. I believe that the proposed rule would force these small businesses in an untenable position; they would either have to charge all of their IRA customers a higher fee to provide a fiduciary standard of care or lose a large portion of their client base, putting their entire practice in jeopardy.

It is with these concerns in mind that I urge you to take more time to study the effects of this proposed rule, specifically regarding how it will affect IRA investors and small businesses. Furthermore, I believe working closely with the Securities and Exchange Commission would be insightful as they work to modernize the definition of fiduciary for broker dealers and investment advisors, as mandated by Section 913 of the Dodd-Frank Act.

I thank you in advance for your consideration in the important matter.

Sincerely,



Michael G. Grimm  
Member of Congress