AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

815 Sixteenth Street, N.W. • Washington, D.C. 20006 • (202) 637-5000 • www.aflcio.org

LEGISLATIVE**ALERT**

September 27, 2013

Dear Representative:

On behalf of the more than 13 million people represented by the AFL-CIO and our 57 member unions, I urge you to oppose H.R. 2374, the mislabeled "Retail Investor Protection Act," when it comes to the House floor next week. We view a vote for this bill as a vote to obstruct important protections for vulnerable investors and weaken workers' retirement security.

While the terms of the bill appear slight -- requiring the Securities and Exchange Commission ("the Commission") to make certain findings before issuing a new fiduciary rule and requiring the Department of Labor ("the DOL") to wait for the Commission before it promulgates its companion rule -- it would thwart DOL's ability to protect workers' retirement savings. This bill places a superfluous obligation on the Commission before it can go forward, one that does not meaningfully contribute to the benefit of investors but that ties up the Commission rather than allowing it to issue its rule. Make no mistake: The intent behind this bill is to delay the Commission rule and thereby also block DOL from carrying out its statutorily required responsibilities.

This bill affects all workers who are trying to save for their retirement. The primary way most working people invest in the capital markets is with their retirement savings -- frequently their biggest financial asset. They are counting on making the most of their money when they seek investment advice; they are counting on that advice being free from conflicts of interest. That is what is at stake here.

The protections being developed by the DOL are long overdue. While ERISA's fiduciary rules are intended to protect workers' retirement savings from fraudulent, deceptive, and misleading practices, the Department's rulemaking has not kept pace with the dramatic changes in the retirement income landscape over the past four decades. There are critical gaps in the current rules that must be addressed.

The 1975 DOL fiduciary rule is an anachronism from another time when few workers had individual retirement savings accounts. Consequently, important investor protections are not required in many situations where financial professionals provide investment advice to workers and retirees, frequently concerning a variety of new and complex investment products. Furthermore, mutual funds and their sellers and brokers who once played a relatively small role in retirement planning are now dominant players. The fiduciary rules must be modernized to reflect these changes and to shut down the many avenues that now exist for potentially deceptive or abusive practices that threaten workers' retirement security.

There is no justification for Congress to insert itself into the regulatory process. The DOL has been engaged in a very deliberative rulemaking process, taking very seriously the criticisms of the original proposal. It has conducted the extensive economic analysis which industry groups demanded; it has promised to issue its revised rule this time with accompanying prohibited transaction exemptions to ensure that its potential impact can be assessed fully; it has coordinated closely with the Commission to ensure that its rule does not conflict with any rule the Commission may eventually adopt.

Opposition to DOL going forward is based on speculation about what the rule might do. A vote for this bill prevents us from seeing the actual language, and the actual prohibited transaction exemptions, and from engaging in the formal regulatory process which includes ample opportunity for public comment.

We urge you to oppose H.R. 2374, an ill-disguised attempt to thwart two important rulemakings, the effect of which will be to allow the continuation of financial practices that harm American workers and undermine their retirement security.

Sincerely,

William Samuel, Director
Government Affairs Department