--UPDATED--

September 17, 2014

Dear Member of Congress:

The undersigned organizations are writing in support of the Department of Labor (DOL)'s efforts to update and strengthen the outdated rules adopted 40 years ago that apply when individuals receive professional advice about their retirement investments.

This step is urgently needed and long overdue. The retirement circumstances facing American workers and families today are dramatically different than they were 40 years ago. Most people find themselves ill-equipped to navigate the complex choices they now face, so they turn to advisers they trust to act in their best interest.

However, unless the DOL rule is updated and broadened, many workers and retirees will continue to be vulnerable to conflicted advice that actually depletes their savings and threatens their prospects for retirement.

<u>The DOL fiduciary rule is outdated, and those saving for retirement need sound investment advice more than ever.</u>

The DOL's fiduciary duty rule was adopted in 1975 and has not been updated for almost 40 years, notwithstanding enormous changes in the way Americans save and invest for retirement. Traditional defined benefit plans offered by employers have been largely replaced by IRAs and 401(k)'s (which did not exist 40 years ago). As a result, most workers can no longer rely on professionally managed pensions to guarantee a secure retirement. In addition, workers and retirees must choose from a large variety of investment options, many of which are difficult to understand. Thus, in today's world, workers and retirees face investment decisions that are, at once, deeply confusing and crucially important.

As a result, Americans must rely on professional financial advice to plan for retirement. Ironically, however, it is when consumers seek professional financial advice that they may be most at risk. People typically believe that their advisers are obligated to act in their best interest, and they accordingly place their trust and hard-earned retirement savings in the hands of those advisers. Yet many advisers have no legal obligation to act in their clients' best interest. Until the DOL's rule is updated, most advisers will be free to recommend retirement investments that pay them high fees at the expense of their clients, who end up with products that cost too much, perform badly, or even cause dramatic losses.

<u>Without an updated rule, the heavy toll on Americans investing for retirement will continue to mount.</u>

Americans pay a heavy price – amounting to tens or even hundreds of thousands of dollars in lost retirement income – as a consequence of the status quo which permits trusted financial advisers to profit at their clients' expense. That is true whether the advice comes from a mutual fund call center urging investors to roll over their 401(k) assets into an IRA even if they would be better off keeping the money in a 401(k) plan, or from a broker pushing an IRA investor to purchase high-cost financial products when better, less costly alternatives are available.

<u>Low and middle income Americans are especially vulnerable without the protections that an updated rule will provide.</u>

The need for action is especially urgent as some financial advisers are more likely to target less affluent and less sophisticated investors with products that have high costs, substandard features, elevated risks, or poor returns that make them inferior to other alternatives. Academic literature shows that it is the less wealthy, often less sophisticated investors who are most at risk from recommendations that are not in their best interests. We are particularly troubled by this fact, as these are the very individuals who most need to make every penny count when investing to fund a decent standard of living in retirement.

<u>The DOL rule can protect Americans without limiting the availability of advice.</u>

To remedy this situation, the DOL must update its regulations to ensure that all those who provide investment advice to retirement accounts are clearly required to act in the best interest of their clients. And, contrary to the dire predictions of many in the financial services industry, we believe the re-proposed rules can achieve the necessary balance of protecting investors while providing financial firms with the flexibility they need to provide broad access to their advisory services.

In addition, we note that retirement savings are, to a large extent, tax-subsidized. The point of the subsidies is to help people save for a secure retirement and receive maximum value for the money they set aside. There is a substantial public interest in ensuring the largest share of retirement savings possible goes to the saver, without unnecessarily high sums being siphoned off or redirected to advisers with conflicts of interest.

<u>The public has a right to see, evaluate, and comment on an updated DOL rule.</u>

We believe it imperative that all stakeholders reserve judgment until we actually see the re-proposed rules and can weigh what the likely impact will be on investors and advisers alike. There should be no doubt that the premature objections from some opponents of the rule are a transparent effort to delay or prevent action on this much needed rulemaking. Moreover, issuance of the proposal simply begins a public input process; nothing will be decided until all stakeholders have had a chance to consider the rule and offer comments on it.

<u>Conclusion</u>

Action by the DOL to update and strengthen the protections that apply when individuals receive advice about their retirement investments has the potential to deliver concrete benefits to millions of workers, investors, and retirees – all at no cost to the US treasury or taxpayers. The undersigned organizations strongly believe that the agency should proceed with its rulemaking, allowing stakeholders to evaluate the rules on their merit when the regulations are re-proposed and published for public input.

Sincerely,

National Organizations:

AARP

AFL-CIO

AFSCME

Alliance for Retired Americans

American Federation of Government Employees

American Federation of School Administrators

American Federation of Teachers

Americans for Financial Reform

Better Markets

Center for Community Change

Consumer Action

Consumers for Auto Reliability and Safety

Consumer Federation of America

Consumers Union

Demos

The Economic Policy Institute

Fund Democracy Inc.

International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts

International Association of Machinists and Aerospace Workers

International Brotherhood of Electrical Workers Union

International Brotherhood of Teamsters

International Federation of Professional and Technical Engineers

International Longshoremen's Association

International Union of Bricklayers & Allied Craftworkers

The Leadership Conference on Civil & Human Rights

Metal Trades Department, AFL-CIO

NAACP

National Association of Letter Carriers

The National Coalition for Asian Pacific American Community Development

National Committee to Preserve Social Security and Medicare

National Council of La Raza

National Senior Citizens Law Center

National Women's Law Center

Pension Rights Center

Public Citizen

SEIU

United Auto Workers

United Food and Commercial Workers Union

U.S. PIRG

United Steel Workers

Wider Opportunities for Women

State and Local Organizations:

California School Employees Association

Chicago Consumer Coalition

Consumer Federation of the Southeast

Massachusetts Consumers' Coalition

Oregon Consumer League

cc: Hon. Thomas E. Perez, Secretary, Department of Labor
Phyllis Borzi, Assistant Secretary for Employee Benefits Security, Department of Labor
Hon. Shaun Donovan, Director, Office of Management and Budget
Jeffrey Zients, Director, National Economic Council
Lily Batchelder, Deputy Director for Domestic Affairs, National Economic Council

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