



October 28, 2015

Dear Representative:

It has come to our attention that a Dear Colleague is being circulated asking Members to sign on to a letter to the Department of Labor (DoL) urging the Department, after “determining the specific changes [it] will make to the Rule,” to then provide an additional comment period before promulgating the final conflict of interest rule. **We are writing to urge you not to sign on to this letter.**

There is no reason to think that DoL will be able to comply with this additional hurdle. The addition of a 15- to 30-day comment period called for in the letter to Secretary Perez likely will jeopardize the Department’s ability to finalize a rule during this Administration, given the voluminous response it would receive during another comment period. Moreover, once the door is opened to an additional comment period, however short, industry opponents inevitably will demand more time, arguing, as they have before, that they can’t possibly adequately review the proposed changes in the allotted time.

The request for an additional comment period is unnecessary given the extraordinarily lengthy comment and hearing process that has already occurred. All stakeholders have had ample opportunity to weigh in and the DoL is now considering the thousands of comments it has received to determine how best to address all legitimate concerns and incorporate constructive suggestions to improve and clarify its proposal. As Representative Polis said on the House floor this week, “There is no reason to doubt that DoL will do its job correctly.”

This letter plays into the hands of those who hope this rule will never see the light of day. However the Department responds – either by refusing to grant the additional opportunity for comment or by granting the comment period recommended in the letter – we have no doubt that industry will cite their decision as further evidence that the Department is failing to adequately consider stakeholder input.

Finally, this proposal for an additional comment period has implications beyond this particular rulemaking. Once there is precedent that members of Congress may properly intervene in a rulemaking to request an expanded comment process, opponents of other rulemakings can be expected to demand similar opportunities in the future. Having supported such a request once, members of Congress may find it difficult to draw the line against future requests.

For all these reasons, we urge you NOT to sign on to the letter to Secretary Perez.

Thank you for your consideration of our views.

Sincerely,

SaveOurRetirement Steering Group

AARP

AFL-CIO

American Federation of State, County and Municipal Employees (AFSCME)

Americans for Financial Reform

Better Markets

Consumer Federation of America

Pension Rights Center