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October 26, 2009

The Honorable Barney Frank
Chairman
Financial Services Committee
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Spencer Bachus II
Financial Service Committee
U.S. House of Representatives
B371A Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Frank and Representative Bachus:

On behalf of our nearly 40 million members, we would like to voice AARP's support of H.R. 3817, the Investor Protection Act of 2009.

In today's world of do-it-yourself retirement, stocks and other investment vehicles have become an increasingly important component of an individual's retirement assets, either owned directly or through mutual funds or retirement plans. Individual investors not only have more control over their retirement assets but also more responsibility to make appropriate investment choices. For these reasons, individual investors' chances for a secure retirement depend more than ever on well-regulated, functioning and transparent markets.

AARP supports the effort to increase funding for the Securities and Exchange Commission (SEC). The rapid growth in investment activity over the past decade has severely taxed the resources of the SEC. We are grateful to see that the bill increases authorized funding to supervise the nation's markets.

AARP supports the authority for the SEC, as specified in the bill, to prohibit or limit mandatory binding arbitration. We believe that mandatory binding arbitration should be prohibited in consumer contracts, including securities contracts. The arbitration process has many disadvantages for individuals, including:

- high up-front costs, typically much higher than the expenses to file a lawsuit;
- limited access to documents and other information;
- limited knowledge on which to base the choice of an arbitrator;
- the absence of a requirement that arbitrators follow the law or issue written decisions; and
- the extremely limited grounds for appealing an arbitrator's decision--even mistakes of law cannot be appealed.

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AARP also supports the bill's enhanced authority to test rules or programs by gathering information and communicating with investors and other members of the public. This type of testing can improve the clarity of communications with the public by the SEC, and it can better inform the SEC in its rulemaking so that publicly traded companies better communicate with their investors. In addition, we support many of the bill's other improvements, including specifically extending aider and abettor liability to those who knowingly or recklessly assist in the violation of the Securities Act of 1933 or the Investment Advisors Act of 1940.

Finally, we agree that there should be a requirement that a broker or dealer be held to the same standard of care as an investment advisor when providing investment advice to a retail customer. We are concerned, however, that the fiduciary duty which is owed by an investment advisor, and which carries with it very specific legal implications, could be diminished during the rule-making process. In this regard, we believe that any changes that weaken the existing definition of a fiduciary under the Investment Advisors Act of 1940 should be avoided. AARP looks forward to a constructive dialogue with the Committee and the SEC to address our concerns.

If you have any further questions, feel free to call me, or please have your staff contact Ryan Wilson from our Governments Relations staff at 202-434-3918.

Sincerely,



David P. Sloane
Senior Vice President
Government Relations and Advocacy

cc: The Honorable Paul Kanjorski