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Mr. Edward Hugler
Acting Secretary
Department of Labor
200 Constitution Ave. NW
Washington DC 20210

Dear Acting Secretary Hugler:

We are writing to strongly encourage the department to delay – in its entirety – the Department of Labor's final rule entitled, "Definition of the term "Fiduciary"; Conflict of Interest Rule-Retirement Investment Advice, 81 Fed. Reg. 20946 (April 8, 2016)."

We applaud President Trump's leadership on this matter in issuing his February 3, 2017 presidential memorandum, which directed the department to examine the fiduciary rule and prepare an updated economic analysis to assess whether it will "adversely affect the ability of Americans to gain access to retirement information and financial advice."[1] We strongly agree with the president's stated priority in this memorandum "to empower Americans to make their own financial decisions," and "to facilitate their ability to save for retirement." As you are undoubtedly aware, last year the House and Senate passed H.J.Res. 88, a Congressional Review Act resolution that would have overturned the fiduciary rule, but unfortunately it was vetoed by former President Obama.

As members of Congress, we are very concerned about the impacts of this rule on access to retirement advice for small- and medium-sized investors, as well as small businesses who are interested in establishing a retirement plan. In 2015, the Government Accountability Office found that 29 percent of Americans 55 and older have no retirement savings and no traditional pension. In fact, today, nearly 40 million working families haven't saved anything for retirement. We need to make it easier for working families – particularly low- and middle-income families – to save for their retirement years.

Since this rule was first proposed in 2010, multiple congressional committees have held hearings and written oversight letters that exposed significant shortcomings with this rulemaking. One of the primary concerns that our oversight exposed is that financial advisers would be forced to move from commission-based advisory accounts to fee-based advisory accounts, and that advisors would be unlikely to afford to continue providing advice to small, fee-based accounts. To illustrate this problem, consider a small investor with $2,000. A fee of 1 or 2 percent would amount to between $20 – $40. The most likely outcome for that investor is that they will either invest their funds with no advice or wait to invest until they have sufficient funds to receive advice. Neither of these outcomes is desirable from a public policy perspective.

This illustration is borne out in many of the reactions to the department's rulemaking. Multiple brokerage firms and insurance companies have announced that they no longer offer brokerage

[1] https://www.whitehouse.gov/the-press-office/2017/02/03/presidential-memorandum-fiduciary-duty-rule

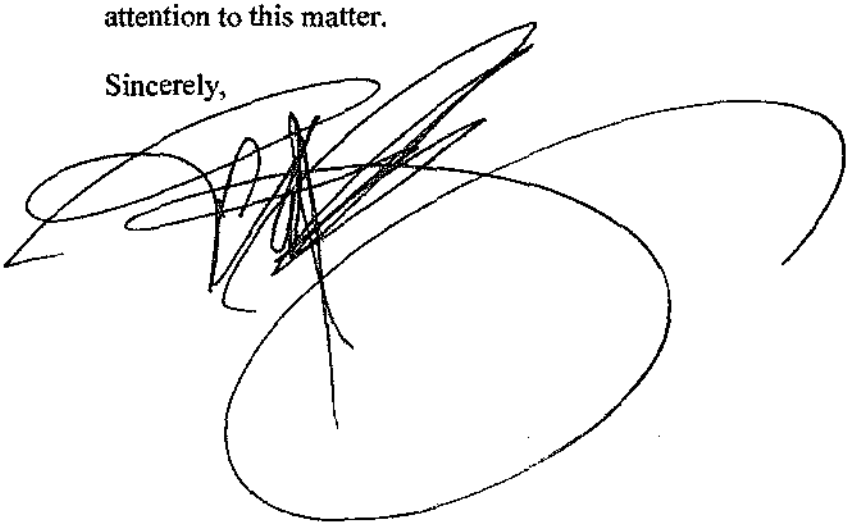
accounts to IRA account owners or exit business lines due to the constraints of the Rule. As predicted, firms have also raised account minimums for investors, limited choices, and moved investors to accounts that offer "execution" only services. These are just a few of the examples of the impact the rule is having on investment advice.

While we appreciate that the department has now delayed enforcement of its rule for 60 days[2], we urge you to act expeditiously to reverse this significantly flawed rule. Long-term certainty is critical for investment advisers to be able to offer sustainable retirement advice models, and with many firms preparing for nearly a year for implementation of the original rule, many firms are now in limbo as to whether to continue with plans to implement more restrictive retirement-advice plans.

This rule will have significant consequences for our constituents, many of whom would prefer to continue receiving advice that was previously available. The delay that appeared in the Federal Register on April 7, 2017, contravenes the presidential memorandum which directed a new economic analysis of the Rule and the impact it is having on the marketplace. Rather than facilitating an orderly review period, the preamble illogically concludes that the record supports applying major aspects of the Rule before the President's review and updated economic analysis are complete. This is nonsensical.

Again, we strongly urge you to delay this rule in its entirety. We stand ready to work with you to ensure those most in need of retirement advice continue to receive it. We appreciate your attention to this matter.

Sincerely,



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