

United States Senate

WASHINGTON, DC 20510-2101

May 12, 2015

The Honorable Thomas E. Perez
Secretary
United States Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Dear Secretary Perez:

We write today to request that the comment period be extended for the Department of Labor's (DOL) recently proposed rule, the "Definition of the Term 'Fiduciary'; Conflict of Interest Rule—Retirement Investment Advice," amendments to exemptions, and exemptions (collectively, "exemptions").¹ Given that the complex rule and its exemptions together run 120 pages with another 250 pages of economic analysis, we encourage the Department to allow consumers and stakeholders a reasonable opportunity to review the proposed rule and exemptions by extending the comment period to 120 days.

The Department's current proposal provides for a 75-day comment period that ends on July 6, 2015.² This is not an appropriate amount of time. The proposed rule and exemptions will have a significant effect on countless working and middle-income Americans who have worked and saved so diligently to ensure a secure retirement. The Department has stated that it will not extend the comment period,³ but bipartisan support to extend the deadline is growing.⁴

Previously in 2010, the Department provided consumers and stakeholders with additional time to develop informed opinions of and submit comments relating to proposed DOL changes to fiduciary standards. The 2010 "fiduciary" rule was significantly shorter in length, but the Department initially provided for a 90-day comment period.⁵ Yet, the Department is providing only 75 days to review this longer and more complex proposed

¹ Definition of the Term "Fiduciary"; Conflict of Interest Rule—Retirement Investment Advice, 80 Fed. Reg. 21928-21960 (proposed Apr. 20, 2015) (to be codified at 29 C.F.R. Parts 2509 and 2510) [hereinafter *2015 Conflict of Interest Rule*]. Exemptions and amendments to exemptions are codified at Volume 80 of the Federal Register.

² See *2015 Conflict of Interest Rule*.

³ See Melanie Waddell, *DOL Not Budging on Fiduciary Rule Comment Period*, THINKADVISOR (Apr. 23, 2015), <http://www.thinkadvisor.com/2015/04/23/dol-not-budging-on-fiduciary-rule-comment-period>.

⁴ See Mark Schoeff, Jr., *Democratic senators split from White House on DOL fiduciary rule*, INVESTMENTNEWS (Apr. 30, 2015), <http://www.investmentnews.com/article/20150430/BLOG07/150439998/democratic-senators-split-from-white-house-on-dol-fiduciary-rule>.

⁵ See Definition of the Term "Fiduciary," 75 Fed. Reg. 65263-65278 (proposed Oct. 22, 2010).

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rule. In 2010, the Department stated that it wanted “[t]o ensure that all interested persons ha[d] the opportunity to prepare and submit comments on the proposed rule,” and expanded the proposed rule’s comment period by two weeks to give consumers and stakeholders a total of 104 days for review.⁶ Employee Benefits and Security Administration (EBSA) Assistant Secretary Phyllis C. Borzi further commented that “We recognize the significance of the proposed rule for plans, participants, beneficiaries and many plan service providers and therefore believe the steps we are announcing today [including the comment period extension] *will ensure broad consideration of all the issues and interests* in this regulation.”⁷

The Department’s current proposed rule and exemptions implicate the same need for thorough consideration of all issues and interests to make sure working and middle-income Americans are not harmed. The newly proposed rule and exemptions would significantly alter the retirement landscape for countless Americans with retirement plans and/or individual retirement accounts insofar as the rule and exemptions expand fiduciary duties owed by investment advisers.

Therefore, we ask that the Department extend the comment period to 120 days in order to afford consumers and stakeholders the best chance to thoroughly review the rule and provide informed opinions and comments.

We appreciate your prompt time and attention to our request, and we look forward to staying apprised of further developments.

Sincerely,



Lamar Alexander
Chairman
Senate Committee on Health,
Education, Labor, and Pensions



Roy Blunt
Chairman
Subcommittee on the Departments of
Labor, Health and Human Services,
Education, and Related Agencies
Senate Committee on Appropriations

⁶ Press Release, U.S. Dep’t of Labor, US Department of Labor Announces a Public Hearing on Proposed Definition of Fiduciary Regulation (Dec. 22, 2010) (emphasis added).

⁷ *Id.*



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Senate Majority Leader



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Chairman
Subcommittee on Employment and
Workplace Safety
Senate Committee on Health,
Education, Labor, and Pensions



Ron Johnson
Chairman
Senate Committee on Homeland Security
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United States Senator



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United States Senator



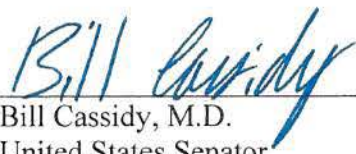
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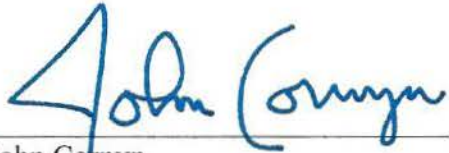
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