

April 26, 2016

The Honorable Paul Ryan
Speaker
U.S. House of Representatives
H-232, U.S. Capitol
Washington, DC 20515

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
H-204, U.S. Capitol
Washington, DC 20515

Re: H.J. Res. 88, “Disapproving the rule submitted by the Department of Labor relating to the definition of the term ‘Fiduciary’”

Dear Speaker Ryan and Leader Pelosi:

I am writing on behalf of the Investment Company Institute¹ (“Institute”) to support H.J. Res. 88, introduced by Reps. Phil Roe (R-TN), Charles Boustany (R-LA) and Ann Wagner (R-MO).

The Institute strongly endorses the principle that financial professionals should act in the best interest of their clients when offering personalized investment advice. Bipartisan legislation introduced by Reps. Roe, Peter Roskam (R-IL), Richard Neal (D-MA) and John Larson (D-CT), already advancing in the House, is the appropriate way to implement this principle. Such legislation has the distinct advantage of imposing a best interest standard through changes in the law, rather than through the cumbersome contractual regime contrived in regulations by the Department of Labor. The legislation would impose broad, strong statutory protections for savers seeking financial advice, without introducing the extreme complexity inherent in the Department’s rule.

While the Department’s final rule reflects a number of modifications, the basic structure of the proposed rule remains intact. Like the proposed rule, the final rule imposes significant new liability through a complicated, back-door regulatory regime that will have the effect of limiting available advice options for many savers. As a result, implementation of the rule will make it more difficult for low- and middle-income Americans to save for retirement. Small businesses, in particular, will find it more difficult to offer their employees saving opportunities.

¹ The Investment Company Institute (ICI) is a leading, global association of regulated funds, including mutual funds, exchange-traded funds (ETFs), closed-end funds, and unit investment trusts (UITs) in the United States, and similar funds offered to investors in jurisdictions worldwide. ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. ICI’s U.S. fund members manage total assets of \$16.9 trillion and serve more than 90 million U.S. shareholders.

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Finally, the Department of Labor's Regulatory Impact Analysis and final rule fail to justify this proposed overhaul of the retirement savings marketplace. While the Administration has repeated its claims about costs of "conflicted advice," the latest available data² show that brokers tend to put their clients into lower-cost, better-than-average performing investment funds. This current market reality reflects the fact that the best way for financial professionals to build successful advice businesses is to serve their clients well. The Department in its adopting release simply chose to disregard the Institute's analysis in this regard.

For all these reasons, the Institute encourages all members of the House of Representatives to support H.J. Res. 88. It represents an opportunity to enact bipartisan legislation that provides for a workable best interest standard that is applicable to all investors.

Sincerely,

A handwritten signature in black ink that reads "Paul Schott Stevens". The signature is written in a cursive style with a large initial "P" and a period at the end.

Paul Schott Stevens
President & CEO
Investment Company Institute

cc: Members of the U.S. House of Representatives

² Letter from Brian Reid and David Blass, ICI, regarding the Department's Regulatory Impact Analysis (July 21, 2015), available at https://www.ici.org/pdf/15_ici_dol_fiduciary_reg_impact_ltr.pdf.