

**Congress of the United States**  
**Washington, DC 20515**

May 2, 2017

The Honorable Alexander Acosta  
Secretary  
Department of Labor  
200 Constitution Ave. NW  
Washington DC 20210

Dear Secretary Acosta:

Congratulations on your confirmation. 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).” While we understand you are faced with many critical issues, there is an urgent need for your attention to this rule.

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.”<sup>1</sup> 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 may be 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 advisers 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

---

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

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 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<sup>2</sup>, 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,

  
David P. Roe, M.D.

  
Erik Paulsen

  
Robert B. Aderholt

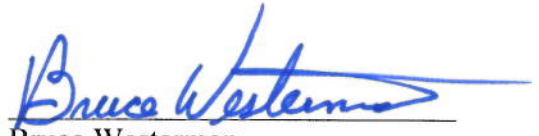
  
Ted Budd

---

<sup>2</sup> <https://www.dol.gov/newsroom/releases/cbsa/cbsa20170404>



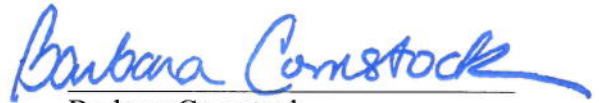
Steve Russell



Bruce Westerman




Scott Tipton



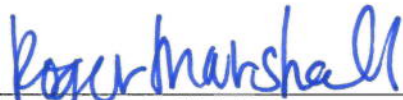
Barbara Comstock



John Rutherford



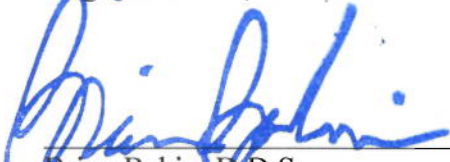
David Young



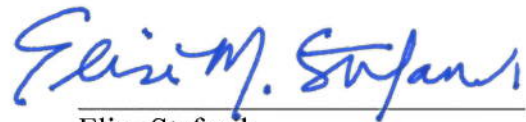
Roger Marshall, M.D.



Tom Emmer



Brian Babin, D.D.S.



Elise Stefanik



Chris Stewart



John Ratcliffe



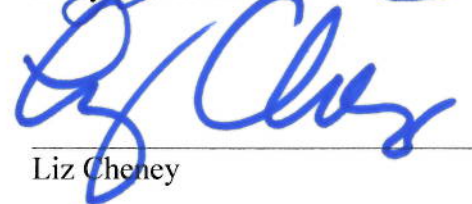
Jim Renacci



Barry Loudermilk



Peter King



Liz Cheney



Ralph Abraham, M.D.





Jackie Walorski

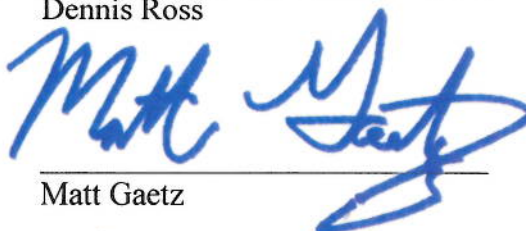
  
Rick W. Allen

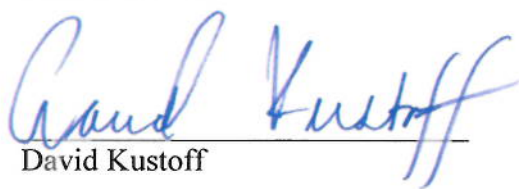
  
Mike Bishop

  
Richard Hudson

  
Dennis Ross


  
Tom MacArthur

  
Matt Gaetz

  
David Kustoff


  
Jim Banks

  
Ted S. Yoho, D.V.M.


  
Larry Bucshon, M.D.

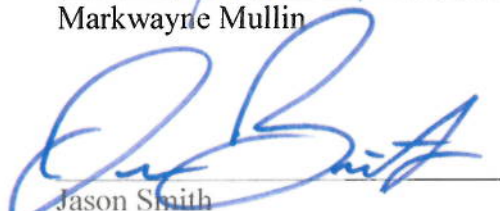
  
Steve Stivers

  
Mark Meadows


  
Susan W. Brooks

  
Markwayne Mullin

  
Chris Collins


  
Jason Smith

  
Ken Buck

  
Diane Black


  
Sam Graves


  
Pat Tiberi


  
Daniel Webster

  
Glenn Grothman

  
French Hill

  
Luke Messer

  
Mark Walker

  
Dan Newhouse

  
Carlos Curbelo

  
Darin LaHood

  
Cathy McMorris Rodgers


  
Doug Collins


  
Don Bacon

  
Ron DeSantis

  
Lynn Jenkins, CPA

  
Evan Jenkins

  
Andy Biggs

  
Trey Hollingsworth

  
Mike Kelly

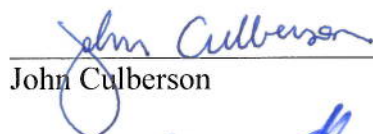
  
Dave Trott

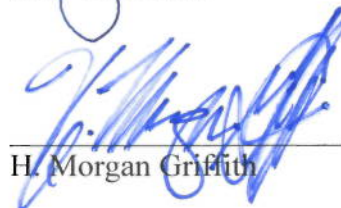
  
David G. Valadao

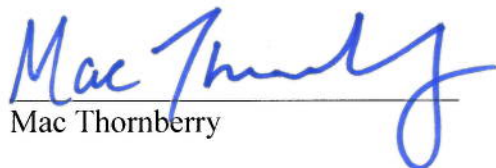
  
Lou Barletta

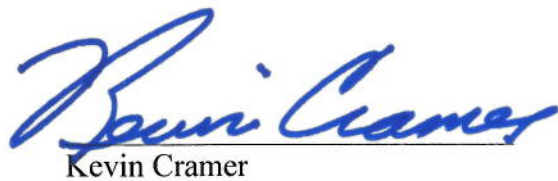
  
Tom Graves

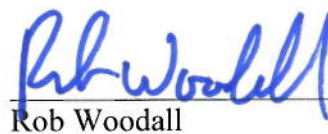
  
Pete Olson

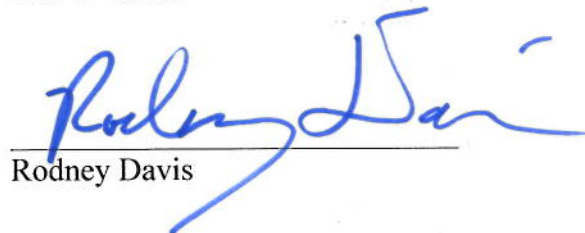
  
John Culberson

  
H. Morgan Griffith

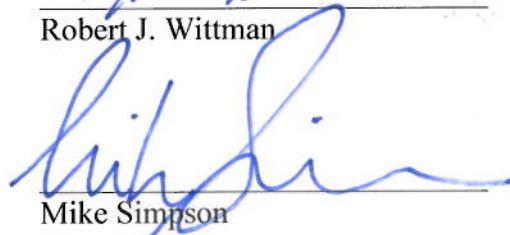
  
Mac Thornberry

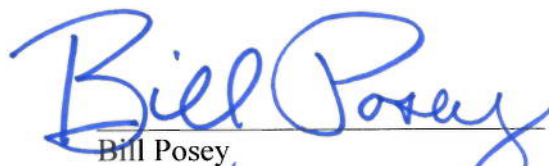
  
Kevin Cramer

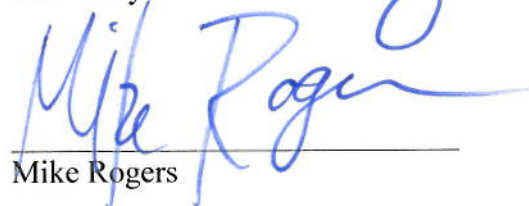
  
Rob Woodall

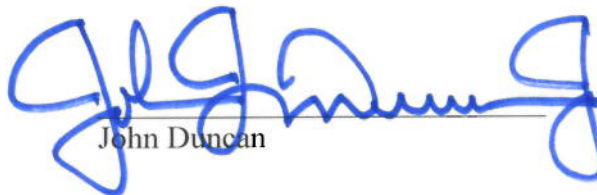
  
Rodney Davis

  
Robert J. Wittman

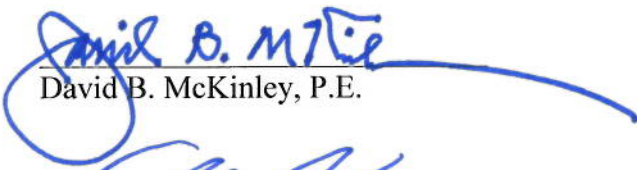

  
Mike Simpson

  
Bill Posey

  
Mike Rogers

  
John Duncan

  
Steve King

  
Jeff Duncan  
Bill Huizenga  
David B. McKinley, P.E.  
Adam Kinzinger  
Marsha Blackburn  
Scott DesJarlais, M.D.  
Pat Meehan  
Ed Royce  
Steven Palazzo  
Blaine Luetkemeyer  
Pete Sessions  
Louie Gohmert  
Peter Roskam  
Darrell Issa  
Sam Johnson  
Bob Goodlatte  
Michael C. Burgess, M.D.  
Kenny Marchant

Steve Chabot

Steve Chabot

Doug Lamborn

Doug Lamborn

Frank D. Lucas

Frank Lucas

Lamar Smith

Lamar Smith

Charles J. Fleischmann

Chuck Fleischmann

Austin Scott

Austin Scott

Rick Crawford

Rick Crawford

Kevin Yoder

Kevin Yoder

Tom Reed

Tom Reed

Todd Rokita

Todd Rokita

Bob Gibbs

Bob Gibbs

Bob Latta

Bob Latta

Randy Hultgren

Randy Hultgren

Kristi Noem

Kristi Noem

Joe Barton

Joe Barton

John Shimkus


John Shimkus


Vicky Hartzler

Vicky Hartzler

F. James Sensenbrenner, Jr.

F. James Sensenbrenner, Jr.

  
Rod Blum

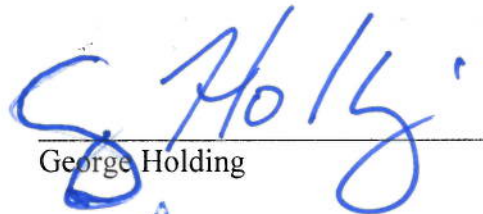
  
Adrian Smith

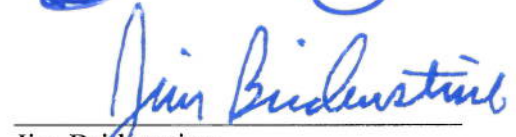
  
Lloyd Smucker

  
Steve Pearce

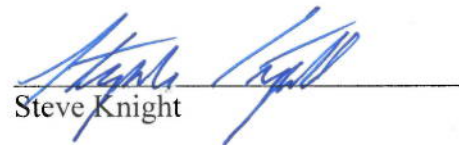
  
Brad Wenstrup

  
Mia Love

  
George Holding

  
Jim Bridenstine

  
Rodney Frelinghuysen

  
Steve Knight

  
Mike Gallagher

  
Thomas Massie