



Oppose H.R. 2823, Legislation to Weaken Protections for Retirement Savers

Dear Member of Congress:

As strong supporters of measures to strengthen retirement income security for working families and retirees, we urge you to reject H.R. 2823, the “Affordable Retirement Advice for Savers Act,” when it is marked up in the Education and Workforce Committee on Wednesday. Far from being a pro-retirement security alternative to the Department of Labor (DoL) conflict of interest (or “fiduciary”) rule, H.R. 2823 would simultaneously restore regulatory loopholes that enable financial professionals to avoid their fiduciary obligations, allow conflicts of interest to once again go unchecked, and apply weak and inconsistent standards to retirement investment advice.

The bill would repeal the Department of Labor’s fiduciary rule just as it is beginning to deliver tangible benefits to retirement savers. Since the DoL rule was finalized a little over a year ago, financial firms have announced implementation plans that make clear that the rule is both workable and working as intended to deliver fiduciary advice at an affordable price and under a variety of business models. Contrary to the negative picture painted by industry rule opponents, conflicts are being reined in, investment products are being improved, and access to advice is being preserved for even the smallest accountholders. This is the direct result of provisions in the DoL rule that back its tough best interest standard for *all* retirement investment advice with real limitations on practices that encourage and reward advice that is not in customers’ best interests.

In contrast, H.R. 2823 would codify loopholes in the definition of retirement investment advice only recently closed by the DoL rule. Under this bill, a simple disclaimer would suffice to enable financial professionals to avoid all fiduciary obligations to their retirement advice clients. For those who do not avail themselves of a loophole, the standard that would apply is a weak and ineffective one. Even the most potentially harmful conflicts – such as being paid more to favor one investment product over another or recommending a limited menu of proprietary products – would be addressed exclusively through disclosures. While advice to IRA investors would ostensibly be subject to a best interest standard, the standard applied under the statute is far weaker than the existing best interest standard under ERISA, the tax code, or the securities laws. Even that watered down standard would not apply to advice to retirement plans or plan participants.

The weak and ineffective approach of this legislation would ensure that there are no meaningful changes in harmful industry practices and, thus, no real benefits to retirement savers. Rather,

some financial professionals would gain the right to claim they operate under a best interest standard without having, in fact, to do so. **As such, this bill not only reverses the advances in investor protection of the DoL fiduciary rule, it weakens the already inadequate protections that applied before that rule was adopted.**

Working families and retirees saving for a secure and independent retirement deserve the strengthened protections offered by the DoL rule— an enforceable best interest standard, backed by real mitigation of conflicts, applicable to all retirement investment advice. We urge you to reject this deeply flawed bill when it is marked up on Wednesday.