

United States Senate
WASHINGTON, DC 20510

March 4, 2015

The Honorable Shaun Donovan
Director
Office of Management and Budget
1650 Pennsylvania Ave, NW
Washington, DC 20503

Dear Director Donovan:

As the Office of Management and Budget (OMB) has formally received for review from the Department of Labor a rule intended to revise and broaden the definition of "fiduciary" for application under the Employee Retirement Income Security Act (ERISA), we write to express concerns about such a proposal.

It is important that people investing in Individual Retirement Accounts (IRA's) receive appropriate investment advice. However, we are not convinced that the Department of Labor (DoL) has clearly demonstrated that the type of rulemaking it contemplates or has previously issued is necessary. It appears that the Department's prior assessment of the problem has focused primarily on media reports and anecdotal evidence. It has highlighted cases which were exposed under existing rules and authorities rather than presenting evidence based on comprehensive, systemic analyses substantiating unaddressed or pervasive wrongdoing in violation of the public trust.

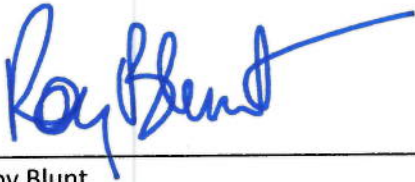
Further, we are concerned that even if updates to the fiduciary standard can be clearly demonstrated to be necessary, the Employee Benefits Security Administration (EBSA) is not the agency best positioned to initiate this rulemaking. A broader regulatory, licensing, and enforcement regime is already in place through the Securities and Exchange Commission (SEC) and the Financial Industry Regulatory Authority (FINRA). Any necessary updates to the fiduciary standard should be led by the SEC. The fact that the Department of Labor seeks to propose such regulations seems to assert that the agency finds the oversight and enforcement in this area by the SEC and FINRA so fundamentally inadequate that the taxpayers must now be asked to fund duplicative bureaucracy within DoL. EBSA is not resourced with, nor has it requested, the vast expertise and enforcement resources to take on the new responsibilities such an expanded role would require. Has the Administration undertaken a formal study of the enforcement records of the SEC and FINRA to reveal substantial shortcomings justifying the involvement and expansion of another agency to resolve? Has deficient enforcement of existing regulations been discussed among OMB, the SEC, DoL, and FINRA? Have the SEC and DoL identified regulatory gaps that both agencies agree DoL is best suited to address?

It should also be noted that EBSA has not previously governed Individual Retirement Accounts (IRA's). Therefore, it is not in a position to fully assess or anticipate the potential impacts of its proposals on the broad range of important stakeholders. We are concerned that such a rulemaking would unnecessarily blur enforcement responsibilities with respect to IRA's, creating an overly complicated, potentially unclear, and, in the worst case, competing hierarchy of regulating agencies and would not ultimately serve the interests of the stakeholders or the taxpayers. The approaches of the two regulatory regimes to address the same perceived problem are so different that they face great risk of inherent conflicts.

Finally, there are widespread concerns that such regulations are likely to disrupt compensation structures in place for financial professionals focused on smaller accounts such that fewer may be sustained. The government must take great care to avoid actions that will threaten access to sound advice by those who may be most vulnerable to the types of abuse these regulations are purported to prevent.

Thank you very much for your attention to these concerns, and we look forward to your reply.

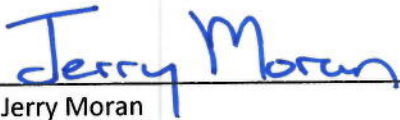
Sincerely,



Roy Blunt



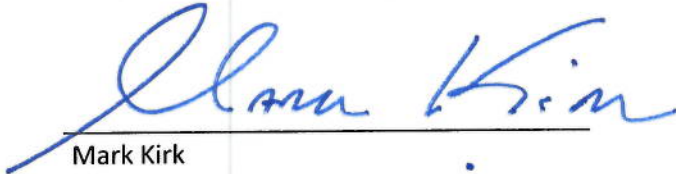
Thad Cochran



Jerry Moran



Lindsey Graham



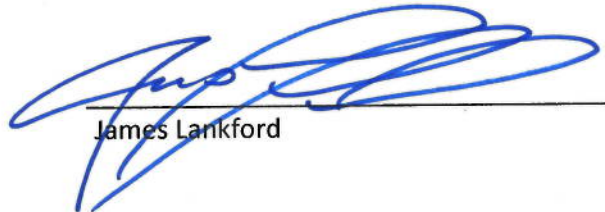
Mark Kirk



Bill Cassidy



Shelley Moore Capito



James Lankford