CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

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The Honorable Tim Walberg
Chairman
Subcommittee on Health, Employment, Labor, and Pensions
Committee on Education and the Workforce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Gregorio Kilili Camacho Sablan
Ranking Member
Subcommittee on Health, Employment, Labor, and Pensions
Committee on Education and the Workforce
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Walberg and Ranking Member Sablan:

The U.S. Chamber of Commerce is the world's largest business organization representing the interests of more than 3 million businesses of all sizes, sectors, and regions. As nearly all of our members are sponsors of employee benefit plans, the Chamber strongly supports policies that encourage employment based retirement saving plans and investment in individual retirement accounts. The Chamber therefore welcomes the Subommittee's hearing entitled "Regulatory Barriers Facing Workers and Families Saving for Retirement."

Earlier this year, the Chamber released ***Securing America's Retirement: A Legislative Roadmap*** that outlines private sector driven policy solutions focused on achieving retirement security for workers. The roadmap focuses on strengthening the voluntary employment based retirement benefits system and enhancing retirement security for workers, while proposing solutions to address the country's evolving workforce. Specifically, the roadmap includes policy recommendations such as:

- Facilitate Open Multiple Employer Plans (MEPs)—Open MEPs would allow small businesses to "join" a plan rather than having to offer one all by themselves. As a result, small businesses will have greater access to professionally managed plans with good benefits and features at lower costs and with fewer burdens. As such, the Chamber encourages rules that eliminate the "one bad apple" rule; simplify MEP reporting and disclosure obligations under ERISA; and eliminate the "employer commonality" requirement.
- Simplify Compliance Testing—Create new optional nondiscrimination testing and eliminate or relax top-heavy rules to encourage greater implementation and maintenance of 401(k) plans.
- Streamline Notice Requirements—Over the years, new notices were created for specific issues without material coordination with existing requirements. As a result, plan administrators face unnecessary complexity and duplication. Streamlining these notices would save workers money in plan expenses and reduce the difficulty of administering plans.

- Allow Default Electronic Disclosure—The DOL does not permit electronic communication as a default for most plans. Allowing employers to provide information electronically by default, while permitting people to request paper notices and statements, would save workers money in unnecessary paper mailings.

Additionally, the Chamber continues to be concerned about the Department of Labor's Fiduciary Rule finalized by the Obama administration in April 2016, which has negative implications for small businesses and individual savers. From the very beginning, the Chamber consistently expressed its concerns in comment letters and testimony that the various economic analyses developed by the DOL associated with the Fiduciary Rule are fundamentally flawed. Rather than informing policy decisions by presenting a complete and impartial economic picture of the effect of the Fiduciary Rule, these analyses ignored, discounted, or otherwise failed to consider relevant information to justify predetermined policy outcomes.

Furthermore, new facts and new research are now available that must be taken into account in a new economic analysis. For example, one of our members providing mutual funds has seen the number of orphaned accounts—accounts where there is no longer a financial professional providing assistance to the owner of the shares—double in just the first three months of this year. These small accounts, averaging about $21,000, are no longer being served by financial professionals because the Fiduciary Rule makes it uneconomical to do so, and the provider expects this number to rise until more than 16% of their accounts are orphaned. In addition, a new study estimating the impact of the new class action liability on service providers shows this new expense could reduce operating margins by as much as 36%, which would translate into significant cost increases passed on to retirement investors. Another new study shows the value of financial professionals regardless of their compensation method—working with a professional results in nearly three times the financial assets after 15 years, while losing one's financial professional can decrease that overall return amount by roughly one-third. The DOL is obligated to take a fresh look without preconceived notions based on the effects in the real world.

As the Chamber has long advocated, a minimum of an additional one-year delay is necessary in order to allow the Department to fully consider the comments it requested on the substance of the Fiduciary Rule, and to draft a proposed regulation revising or rescinding the Fiduciary Rule as authorized in the President's Memorandum. As the Committee examines regulatory barriers in retirement savings, the Chamber encourages the Committee to work with the new Administration to eliminate the many negative implications of the Fiduciary Rule tor retirement savers and workers.

The Chamber looks forward to working with the Committee and all interested parties to strengthen the private retirement system by eliminating regulatory burdens to retirement savings.

Sincerely,

Neil L. Bradley

cc: Members of the Subcommittee on Health, Employment, Labor, and Pensions