

# Congress of the United States

Washington, DC 20515

February 26, 2024

Ms. Julie Su  
Acting Secretary  
U.S. Department of Labor  
200 Constitution Ave NW  
Washington, D.C. 20210

Ms. Lisa M. Gomez  
Assistant Secretary, Employee Benefits Security  
Administration  
U.S. Department of Labor  
200 Constitution Ave NW  
Washington, D.C. 20210

**Subject: Retirement Security Rule: Definition of an Investment Advice  
Fiduciary – RIN 1210-AC02**

Dear Acting Secretary Su and Assistant Secretary Gomez,

We are writing to express our strong support for the Department of Labor's (DOL's) proposed Retirement Security Rule. We believe the proposed rule will help ensure that individuals receive sound investment advice and that financial advisors consistently act in the best interests of the consumers and families they serve.

As you are well aware, the retirement savings landscape has evolved significantly since the original definition of investment advice fiduciaries was established in 1975 – almost 50 years ago.<sup>1</sup> For example, individual account plans are now the dominant retirement plans. The share of participants covered by defined contribution plans, like 401(k)s, has grown from just 26% in 1975 to 78% in 2020, but the rules governing them have not similarly evolved. With changes in the financial industry and the increasing complexity of investment options, it has become imperative to strengthen and modernize the rules governing how workers receive retirement savings advice.

The proposed Retirement Security Rule is straight forward and ensures financial advisers put their clients' best interests before their own. The rule responsibly addresses this necessity by outlining when advice providers are acting in a fiduciary role under federal retirement laws and establishing the conditions they must adhere to in order to safeguard the interests of retirement investors. Under these proposals, investment advice fiduciaries would be required to provide advice that is prudent and loyal, avoid misleading statements about conflicts of interest, fees, and investments, follow policies and procedures designed to ensure advice is in the investor's best interest, charge no more than is reasonable for their services, and disclose basic information about any conflicts of interest.<sup>2</sup>

This rule is essential because there is currently no uniform, comprehensive prohibition on financial professionals and firms placing their interests ahead of their retirement investor clients' interests when providing retirement investment advice. Some unscrupulous advisers, exploiting regulatory loopholes, may recommend high-fee, ill-suited products, potentially costing retirement savers billions of dollars. It is estimated that the cost of conflicted advice in the sale of just one product—fixed index annuities—may cost Americans as much as \$5 billion in retirement savings per year.<sup>3</sup> According to AARP data, this rule is a necessary step toward protecting the retirement security of countless Americans who depend on reliable financial advice for their future.<sup>4</sup>

By updating and clarifying these fiduciary standards, DOL and the Employee Benefits Security Administration play a crucial role in protecting the retirement security of American workers and their families. Requiring retirement investment

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<sup>1</sup> *Background on DOL Retirement Security Rule*. AARP; 2022.

<sup>2</sup> *Proposed Retirement Security Rule: Definition of an Investment Advice Fiduciary*. United States Department of Labor; 2023.  
<https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/erisa/retirement-security>

<sup>3</sup> The White House, Fact Sheet: President Biden to Announce New Actions to Protect Retirement Security by Cracking Down on Junk Fees in Retirement Advice (Oct. 31, 2023),  
<https://www.whitehouse.gov/briefing-room/statements-releases/2023/10/31/fact-sheet-president-biden-to-announce-newactions-to-protect-retirement-security-by-cracking-down-on-junk-fees-in-retirement-investment-advice/>.

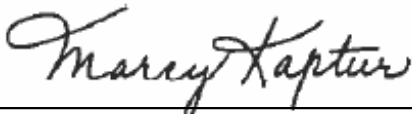
<sup>4</sup> *Department of Labor Retirement Security Rule One Pager*. AARP; 2022.

advice providers to act in accordance with these fiduciary standards serves to shield retirement savers from harmful conflicts of interest that may compromise their financial well-being.

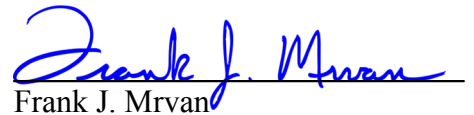
We strongly support the Proposed Retirement Security Rule, and we commend DOL for its thoughtful and deliberative process. We look forward to the Department finalizing this important rule. Our collective commitment to retirement security and the well-being of American workers demands that we take these steps to modernize and strengthen the rules governing retirement investment advice.

Thank you for your dedication to this critical matter, and we look forward to witnessing the positive impact these changes will have on the retirement security of our constituents and all Americans.

Sincerely,



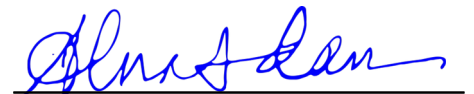
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Marcy Kaptur  
Member of Congress



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Frank J. Mrvan  
Member of Congress



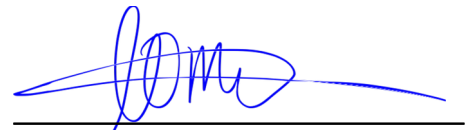
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Stephen F. Lynch  
Member of Congress



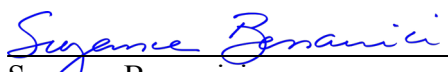
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Alma S. Adams, Ph.D.  
Member of Congress



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Gregorio Kilili Camacho Sablan  
Member of Congress



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Member of Congress



John Garamendi  
Member of Congress



Maxine Waters  
Ranking Member, Committee on  
Financial Services