



CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.



June 18, 2013

Hon. Jeb Hensarling
Chairman
House Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Hon. Maxine Waters
Ranking Member
House Committee on Financial Services
B301-C Rayburn House Office Building
Washington, DC 20515

Re: H.R. 2374, the Retail Investor Protection Act

Dear Chairman Hensarling and Ranking Member Waters:

As organizations collectively committed to the protection of retail investors and the delivery of investment advice under a fiduciary standard of conduct, we write to express our opposition to H.R. 2374, the Retail Investor Protection Act.

As the Committee is aware, the Securities and Exchange Commission (SEC) and the Department of Labor (DOL) are considering separate fiduciary rules for the provision of services under the Investment Advisers Act of 1940 and the Employee Retirement Income Security Act of 1974 (ERISA), respectively. Collectively, our organizations are committed to protecting investors and the delivery of investment advice under a fiduciary standard of conduct. We oppose H.R. 2374 and, as you take up this bill, urge you to consider two important points.

Despite its name, H.R. 2374 is not an investor protection bill. To the contrary, it would leave American investors with significantly less protection. H.R. 2374 imposes unnecessary and onerous rulemaking requirements that the SEC must meet before it can adopt a fiduciary rule. We certainly believe that all of the SEC's proposed rules should undergo appropriate economic analysis before adoption, but this legislation imposes extraordinarily rigorous cost benefit analysis requirements that would delay (or even prevent) the rulemaking and increase the likelihood of it being struck down by the courts upon legal challenge.

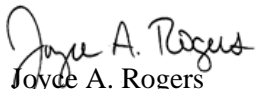
Secondly, it would prevent DOL, which plays an important role in ensuring that Americans' retirement savings are protected by fiduciaries under ERISA, from acting until two months after the SEC issues a final rule related to broker-dealer conduct standards. This not only unnecessarily slows DOL's rulemaking, but it potentially halts DOL's rulemaking altogether if the SEC does not act on a fiduciary rule. In acknowledging public comments and concerns, DOL is expected to re-propose rules to revise its definition of fiduciary under ERISA. It should, as the expert agency in this area, be afforded an opportunity to exercise its rulemaking authority through its normal public process that is not tied to the completion of a rulemaking by a completely separate agency under a separate statute.

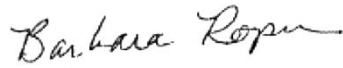
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Together, these provisions in H.R. 2374 would prevent two agencies from moving forward with appropriate notice and comment rulemaking related to the fiduciary standard of conduct under their respective statutes to the detriment – not protection – of investors.


We, therefore, urge you to oppose H.R. 2374, the Retail Investor Protection Act.

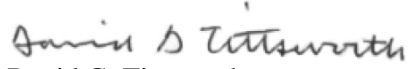
Respectfully,

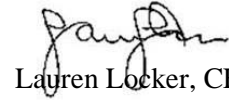

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cc: Members, Committee on Financial Services