CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

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TO THE MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting, and defending America's free enterprise system, supports H.J. Res. 88, which would rescind the Department of Labor's (DOL) controversial "fiduciary" rule. Throughout the rulemaking, the Chamber expressed deep concerns about the negative impact of the proposal, and while the final rule included some changes, serious concerns still remain, particularly concerning the impact on small businesses and individual savers.

Specifically, the final rule broadens the definition of investment advice to include routine communications, such as "sales" communications and certain marketing materials. However, the rule carves out large plan advisors from this definition. If a plan fiduciary has $50 million or more in assets under management or control, the advisor to that large plan is exempt from being a fiduciary, while an advisor to a plan fiduciary with less than $50 million in assets under management or control, which primarily constitutes small businesses (and some mid-size businesses), is not. Therefore, an advisor trying to market retirement savings options to a small plan is considered to be providing investment advice and must determine how to comply with the rule, which means following the onerous requirements under the Best Interest Contract exemption. Due to these additional burdens, advisors to small plans will incur increased litigation risk and additional costs, which will be passed on to the plan. Further, some advisors to small plans may decide to no longer offer their services to small plans if the expense and risk of changing business models and fee structures is not justified.

In addition, the final rule limits investment education to IRA owners, including small business employees participating in a SEP IRA or SIMPLE IRA plan. While advisors are permitted to provide model asset allocations appropriate for IRA owners, they are not permitted to help identify specific funds or investment options that correlate to the model asset allocations. This restriction will make it more challenging for small business employees, and may ultimately deter them from saving for retirement altogether.

At a time when it should be made easier for workers to receive financial education and save for retirement, DOL's final "fiduciary" rule makes it harder. Accordingly, the Chamber supports H.J. Res 88, which would help ensure that small businesses and small savers are not hindered by overly-complex and burdensome rules in saving for retirement. **The Chamber urges you to support H.J. Res. 88 and may consider including votes on, or in relation to, this legislation in our annual *How They Voted* scorecard.**

Sincerely,

R. Bruce Josten