COMMITTEE ON EDUCATION & THE WORKFORCE

COMMITTEE STATEMENT

Opening Statement of Rep. Bob Good (R-VA), Chairman
Subcommittee on Health, Employment, Labor, and Pensions
Hearing: “Protecting American Savers and Retirees from DOL's Regulatory Overreach”
February 15, 2024

(As prepared for delivery)

When it comes to saving for retirement, one thing is certain: Americans should be able to retire in confidence. They should be able to seek out investment advice from the investment professional of their choosing, assess the wide variety of options in today’s marketplace, and then make their own decision on the best options for their retirement.

The Committee is meeting today to discuss the Department of Labor’s (DOL) newest plan to overregulate American retirement savings by imposing a costly, burdensome new rule.

The so-called “Retirement Security Rule” expands the definition of investment advice fiduciary. This could have far-reaching implications for retirement savings and affect critical access to retirement products for millions of Americans.

First, I want to point out that DOL has overstepped its authority on this issue. The Employee Retirement Income Security Act (ERISA) gives the Department of Labor authority to regulate retirement plans sponsored by private employers.

However, the broad-reaching new fiduciary rule regulates retirement accounts far beyond employer-sponsored benefits, like IRAs. The rule is clearly outside the purview of the agency, yet they are trying to regulate it anyway.

DOL’s expansive rule is a blatant power grab, seeking to force more types of financial professionals under its control. But other regulatory bodies at the federal and state

levels already exercise oversight over the retirement products and services DOL is trying to bring within its jurisdiction. The SEC Regulation Best Interest rule requires broker-dealers to act in their clients' best interests. The National Association of Insurance Commissioners' Best Interest Rule also requires state-regulated annuity sales to be in the client's best interest. If the DOL has a real concern about self-dealing, those issues have been addressed elsewhere.

Moreover, my main concern is that the fiduciary proposal will have a disastrous impact on the industry. Past versions of the DOL fiduciary rule created massive headaches for the retirement products and services industry. The last time the government tried to issue a similar rule, financial institutions were forced to eliminate or limit brokerage advice services as a result.

A financial advisor in Virginia put it this way: "The more layers of rules and regulations Congress and the White House add, the less likely it is the average American will get the advice they need."

The rule will give too much latitude to the administrative state to go after anyone in the retirement business and will cause lawsuits to skyrocket.

The costs of implementing the fiduciary proposal and the significant legal challenges that will follow are not fully reflected in DOL's regulatory analysis. But make no mistake—DOL is forcing retirees to be hit with the costs.

Lastly, the DOL gave stakeholders insufficient time to respond to the proposal and has refused to extend the comment period. This is a major departure from rulemaking norms. For example, the 2010 fiduciary rule allowed for a 90-day comment period and an extension. The new fiduciary proposal gave stakeholders a mere 39 working days.

The DOL should be busy supporting implementation of SECURE 2.0 to encourage retirement savings—not proposing rules that will restrict access to financial advice and hurt our nation's seniors.

Planning for retirement is already scary enough, but the Biden administration's overreach will make that process much worse. My goal in this hearing is to be a voice

for our nation’s seniors and to protect those planning retirement from the heavy hand of the bureaucracy.