

Richard G. Thissen
National President



Jon Dowie
National Secretary/Treasurer

October 26, 2015

United States House of Representatives
Washington, D.C. 20515

Dear Representative:

On behalf of the five million federal employees and annuitants represented by the National Active and Retired Federal Employees Association (NARFE), **I urge you to oppose H.R. 1090**, the misnamed “Retail Investor Protection Act,” when the bill is considered on the House floor this week.

NARFE strongly supports the Department of Labor’s Conflict of Interest Rule Proposal, which would strengthen protections for working families and retirees, including federal employees and retirees, military personnel and retirees, and their families, by requiring financial professionals they turn to for retirement investment advice to act in their best interests. If finalized, the rule should result in better investments and, therefore, lead to greater returns on the hard-earned retirement savings of millions of Americans.

H.R. 1090 is a clear attempt to block the DOL rule. Rather than allow DOL to move forward, the bill would require DOL to wait, potentially indefinitely, for the Securities and Exchange Commission (SEC) to finalize a rule under securities law. It also imposes additional, unnecessary and burdensome requirements on the SEC before they may issue a rule – another obvious attempt to delay or block the SEC from issuing a rule similar to the one proposed by DOL. While the bill addresses process not policy, its clear aim is to prevent any agency to promulgate a rule with the same effect as the proposed DOL rule.

DOL has a clear mandate under the Employee Retirement Income Security Act (ERISA) to set standards intended to ensure quality retirement investment advice for retirement savers. The proposed rule falls squarely within DOL’s authority, and the substance of the rule deserves strong support.

The rule updates the definition of “fiduciary investment advice” under ERISA to ensure individuals saving for retirement are protected by a “best interest standard” when receiving investment advice. Under the current rule, the best interest standard does not apply to advice given on a one-time basis, advice regarding rollovers, or any advice on investing in an Individual Retirement Account (IRA). Instead, such advice is often subject only to an extremely weak “suitability” standard, which allows financial advisors to provide recommendations that serve their own interests instead of the clients’ – the advisor may receive a better commission, but the investor may be subject to excessive costs, poor performance and even unnecessary risk.

NARFE is particularly concerned that federal employees and retirees, as well as military personnel and retirees, invested in low-fee Thrift Savings Plan (TSP) funds – the federal

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employee version of a 401(k) – are not adequately protected from conflicted financial advice regarding their TSP holdings. Because rollovers are not covered by the current rule, financial advisors may legally recommend that TSP account holders roll over their TSP holdings into an IRA, where the money could be invested in a mutual fund providing the same, or essentially similar, product, such as an S&P 500 index fund, for as much as 20 times the cost. Due to economies of scale, TSP funds charge very low administrative fees – on average, 0.029 percent – that are far cheaper than alternatives that provide the same returns.

The lack of legal protection is having real-world implications for federal employees and retirees. In fact, as reported by *The Washington Post* in August 2014, when a former federal employee (and pension expert) went undercover to seek advice regarding his TSP holdings, eight out of nine major investment firms told him to roll over his TSP funds into IRAs providing the same or similar investments as offered by the TSP for a substantially higher cost. That is bad advice. Even though it meets a “suitability” standard, it only meets the needs of the advisor, not the investor.

While there are some legitimate reasons to roll over TSP holdings into an IRA, in most cases, federal employees and retirees are better off leaving their money in the TSP. Yet, more than 50 percent of TSP participants removed their funds from the TSP within a year of when they separated from service, according to the latest report by the Federal Retirement Thrift Investment Board (FRTIB). That number is worrisome given the low costs of TSP investments, and it speaks to the prevalence of the bad advice that federal employees and retirees are receiving.

The proposed rule would help ensure investors, including federal employees and retirees, as well as military personnel and retirees, are receiving advice that is in their best interests. NARFE supports the proposed rule and asks that members of Congress allow the Department of Labor to move forward in the process without putting up any unnecessary hurdles. For these reasons, I urge you to vote **NO** when H.R. 1090 is considered on the floor of the House this week.

Thank you for considering NARFE’s views. If you would like to discuss this further, please contact NARFE’s Deputy Legislative Director John Hatton at jhatton@narfe.org or 703-838-7760.

Sincerely,



Richard G. Thissen
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