

# THE NEW ENGLAND COUNCIL

March 9, 2016

Senator Richard Blumenthal  
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Senator Susan Collins  
Senator Angus King  
Senator Elizabeth Warren  
Senator Ed Markey

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Senator Kelly Ayotte  
Senator Jack Reed  
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Representative Michael Capuano  
Representative Stephen Lynch  
Representative Bill Keating  
Representative Frank Guinta  
Representative Ann Kuster  
Representative David Cicilline  
Representative James Langevin  
Representative Peter Welch

Dear Senators and Representatives:

On behalf of The New England Council, I write today to urge you to support two critical pieces of legislation – the Affordable Retirement Advice Protection, or ARAP, Act (H.R. 4293) and the Strengthening Access to Valuable Education and Retirement Support, or SAVERS, Act (H.R. 4294).

First, it is important to note that The New England Council, and its member companies, welcome and believe strongly in a best interest standard. The Council is proud of its member companies in the asset management and broader financial services space, and we know that they strive every day to put their customers first. As such, we applaud the authors of H.R. 4293 and H.R. 4294 – as well as the U.S. Department of Labor (DOL) – for seeking to take action that removes the “bad apples” from this equation.

That said, we believe it is critical that any corrective action does not end up casting too wide a net, resulting in a situation where investors are deprived of critical services and advice. To that point, since the DOL released a proposed rule on the definition of the term “Fiduciary” last April, we have heard repeated concerns related to the workability of certain specifics within the DOL proposal and how the rule, as drafted, would impact some of our member companies’ ability to serve American investors in their efforts to save for a bright retirement.

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**The New England Council**

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In July, the Council submitted a comment letter to the DOL urging that, “prior to issuing a final rule...[the agency should] thoroughly examine all comments on these issues and work with all stakeholders – particularly those in the financial services industry charged with providing advice to Americans – to make any necessary and productive changes that will assuage these concerns and ensure that the rule is workable for all parties involved.”

Yet given the evidence since that time, we remain concerned that the agency’s final rule will not adequately address concerns raised by Council members and members of the public, leaving a final rule that will have negative reverberations and unintended consequences for low and middle income Americans, as well as employees of our nation’s small businesses and innovative startup firms.

At the end of the day, it is essential that any action on this matter achieve a balance between protecting investors and financial consumers from unscrupulous actors and ensuring that those consumers and business owners have access to the types of retirement products, education, and advice that can help them achieve the American dream. That is why the Council supports swift passage of the ARAP Act and the SAVERS Act.

I am pleased to note that both of these bills are bipartisan, including the co-sponsorships of two New Englanders – Reps. Richard Neal of Massachusetts and John Larson of Connecticut – both of whom are senior members of the House Ways & Means Committee and longstanding, dedicated champions of retirement security for all Americans. We are proud of the collaborative and constructive efforts they have brought to the process of identifying a commonsense, workable solution to concerns raised by the DOL regarding conflicts of interest.

Both of these bills have passed their relevant House committees – Education and Workforce, and Ways & Means – through a thoughtful process that included hearings prior to a markup. The Senate Health, Education, Labor and Pensions Subcommittee on Employment and Workplace Safety also held a hearing specifically devoted to the issue in July, and companion legislation has been introduced by Sen. Johnny Isakson (ARAP Act) and Sen. Mark Kirk (SAVERS Act).

The SAVERS Act and the ARAP Act will accomplish the nearly universally shared goal of establishing a best interest standard, and will do so without hampering the ability of hardworking Americans to access timely guidance and advice regarding their financial future. It also continues to provide the Department of Labor the opportunity to get this rule right. Passing these bills will send a signal that Congress is serious about protecting America’s savers. It is our hope that the House and Senate will schedule votes on these pieces of legislation in the coming weeks, and we urge you to support them in any way you can.

We thank you for your consideration on this matter. If you have any questions regarding this letter, please contact me at 617-723-4009.

Sincerely,

A handwritten signature in black ink that reads "Emily J. Heisig". The signature is written in a cursive, flowing style.

Emily J. Heisig  
Senior Vice President

CC: Senator Mitch McConnell  
Senator Harry Reid  
Senator Lamar Alexander  
Senator Patty Murray  
Senator Johnny Isakson  
Senator Al Franken  
Senator Ron Johnson  
Senator Tom Carper  
Representative Paul Ryan  
Representative Nancy Pelosi  
Representative Kevin Brady  
Representative Sander Levin  
Representative Peter Roskam  
Representative John Lewis  
Representative John Kline  
Representative Robert C. Scott  
Representative David P. Roe  
Representative Jared Polis  
Representative John Larson  
Representative Richard Neal