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Invested in America

February 7, 2017

The Honorable Paul Ryan
Speaker, U.S. House of Representatives
H-232 The Capitol
Washington, DC 20515

The Honorable Kevin McCarthy
Majority Leader, U.S. House of Representatives
2421 Rayburn House Office Building
Washington, DC 20515

The Honorable Virginia Foxx
Chairwoman, House Education and the Workforce Committee
2262 Rayburn House Office Building
Washington, DC 20515

Dear Speaker Ryan, Majority Leader McCarthy, and Chairwoman Foxx,

The Securities Industry and Financial Markets Association (SIFMA)[1] would like to express our strong support for use of the Congressional Review Act (CRA) to override the Department of Labor's (DOL) regulation regarding savings arrangements established by states for non-governmental employees. The final rule was published in the Federal Register on August 30, 2016.[2]

The rule describes circumstances in which state payroll deduction savings programs with automatic enrollment would not give rise to the establishment of employee pension benefit plans under the Employee Retirement Income Security Act of 1974, as amended (ERISA). ERISA is a federal law that sets minimum standards for retirement plans in private industry. It protects the assets of millions of Americans so that funds placed in retirement plans during their working lives will be there when they retire. Allowing states to offer plans that are not afforded the same level of legal protections will significantly threaten the retirement security of millions of Americans.

SIFMA has serious concerns with this rule which will do nothing to address the underlying causes of undersaving and fails to protect investors. Furthermore, the rule will weaken retirement savings for many. In addition to a lack of ERISA protections, these state plans will restrict participants' options, limit plan customizability and prohibit the use of one of the most beneficial plan features available in the market – an employer match. Currently, the most common benefit is a dollar-for-dollar match, which can often add up to 6%+ to an employee's gross salary solely

[1] SIFMA is the voice of the U.S. securities industry. We represent the broker-dealers, banks and asset managers whose nearly 1 million employees provide access to the capital markets, raising over $2.5 trillion for businesses and municipalities in the U.S., serving clients with over $20 trillion in assets and managing more than $67 trillion in assets for individual and institutional clients including mutual funds and retirement plans. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit http://www.sifma.org.

[2] 29 CFR 2510; https://www.gpo.gov/fdsys/pkg/FR-2016-08-30/pdf/2016-20639.pdf

for retirement savings purposes. Combined with the mandatory-on-employer structure, this safe harbor will slow the growth of – or lead to businesses dropping – strong existing plans in favor of the one-size-fits-some, untested, protection-less plans being authorized by states (whose own pension systems are currently a combined $330 billion underfunded).[3]

Additionally, low cost retirement options already exist. The financial services industry already offers a wide variety of retirement savings options, including 401(k) plans, 403(b) plans, 401(a) plans, 457(b) plans, SIMPLE IRAs, SEP IRAs and traditional IRAs. Where an employer does not provide a plan, IRAs are readily available online and at most financial institutions. Rather than competing with entities that are already providing these services, states should consider working with the industry to improve awareness of existing options and the need to prioritize retirement savings.

Again, SIFMA urges Congress to override this unnecessary and harmful regulation. Thank you for your leadership on this important issue and we look forward to working with you towards more effective alternatives and improving retirement security in ways that preserve important investor protections.

Sincerely,

Andy Blocker
Executive Vice President, Public Policy & Advocacy

[3] "The State Pension Funding Gap," The Pew Charitable Trusts, pg. 3-4,
http://www.pewtrusts.org/~/media/assets/2016/08/thestatepensionfundinggap2014.pdf