



February 6, 2020

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, DC 20515

Dear Speaker Pelosi and Minority Leader McCarthy,

The Securities Industry and Financial Markets Association (SIFMA)¹ appreciates the opportunity to comment on H.R. 2474, the “Protecting the Right to Organize Act of 2019,” commonly referred to as the PRO Act. As proposed, the bill would alter the independent contractor status under the National Labor Relations Act (NLRA) by imposing an “ABC” test on all businesses and workers, which would adversely impact hundreds of thousands of independent broker-dealers (IBDs) and affiliated independent financial advisors (IFAs).

For over 75 years, IBDs and IFAs have had the option of operating as independent businesses, rather than under an employee model. This method of distributing and selling financial products is well documented and has been repeatedly recognized as appropriate by numerous courts and agencies, including multiple Departments of Labor. The Internal Revenue Service has even created a special designation to formally recognize the independent contractor status of many independent financial advisors.

In the U.S. there are currently 159,581 IFAs² affiliated with 819 IBDs. IFAs choose to affiliate with IBDs so they can own and operate their own small business and themselves control the manner and means of its operation. The IFA model allows advisors to control their own profit or loss, select and manage vendors, and they are typically responsible for managing the expenses and benefits of their practices. IFAs invest in their own facilities and equipment, very often employ their own staff and are subject to supervision and regulatory oversight. They also own the relationship with their clients – the most valuable asset in the industry – which gives IFAs economic leverage and further distinguishes them from individuals working in other industries as independent contractors. Importantly, IFAs also benefit from a decentralized business structure which expands the

¹ SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry's nearly 1 million employees, we advocate for legislation, regulation and business policy, affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. 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 Discovery Data FINRA Series 7 licensed producing registered representatives.

accessibility of financial advice and planning in parts of the country that would otherwise not be served.

Most recently, California recognized that it needed to tailor the scope of its new worker classification law to the gig economy. This narrower, more focused legislation which then became law avoids the unintended consequence of capturing traditional employment models, and allows for an exemption for the securities and insurance industry, among others. H.R. 2474 would upend what isn't a problem area of the workforce, disrupt the livelihoods of hundreds of thousands of advisers and staff, and could limit access to financial advice in certain areas of the country. We encourage lawmakers to exempt IBDs from the legislation. Absent an exemption, we must respectfully oppose its passage.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ken Bentsen", with a long horizontal flourish extending to the right.

Kenneth E. Bentsen, Jr.
CEO and President