

September 5, 2017

The Honorable Jay Clayton  
Chairman  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549

Dear Chairman Clayton,

I write to provide you with a copy of a letter I sent to Secretary of Labor Acosta regarding the Department of Labor's "fiduciary rule." On June 1st, you issued a request for information asking for public comment on rulemaking related to the standards of conduct for investment advisers and broker-dealers.<sup>38</sup> Later that month, in testimony before the Senate Appropriations Committee's Subcommittee on Financial Services and General Government, you said that you planned to "move forward" on a coordinated fiduciary rule with the Department of Labor.<sup>39</sup>

In light of these comments, I wanted to be sure you had a chance to read my letter to Secretary Acosta, which details comments from more than a dozen executives made in earnings calls after DOL's impartial conduct standards went into effect on June 9<sup>th</sup>. These comments make clear four things: (1) companies are well-prepared for the rule's implementation; (2) coming into compliance with the rule is not overly burdensome; (3) the rule is consistent with their goals of putting their clients' interests first; and (4) the Administration's previous delays have caused uncertainty for their companies, and further delays would only exacerbate this uncertainty.

As you are well aware, publicly traded companies are required by law to accurately share all information pertaining to material matters affecting their business models or stock valuations.<sup>40</sup> The same requirements do not apply to political advocacy or lobbying on this or

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<sup>38</sup> Clayton, J. "Public Comments from Retail Investors and Other Interested Parties on Standards of Conduct for Investment Advisers and Broker-Dealers" [public statement]. *U.S. Securities and Exchange Commission* (June 1, 2017). Online at: <https://www.sec.gov/news/public-statement/statement-chairman-clayton-2017-05-31>.

<sup>39</sup> Clayton, J. [Testimony to Subcommittee on Financial Services and General Government, starting at 56 minutes and 38 seconds]. Review of the FY2018 Budget Requests for the SEC & CFTC. Subcommittee on Financial Services and General Government. *United States Senate Committee on Appropriations* (June 27, 2017). Online at: <https://www.appropriations.senate.gov/hearings/review-of-the-fy2018-budget-requests-for-the-sec-and-cftc>.

<sup>40</sup> See S.E.C. Rule 10b-5, at 17 C.F.R. 240.10b-5. Online at: <https://www.gpo.gov/fdsys/pkg/CFR-2011-title17-vol3/pdf/CFR-2011-title17-vol3-sec240-10b-5.pdf>.

any other topic. I hope you will keep the statements from executives in these earnings calls in mind as you and your staff review the forthcoming comments from companies and trade associations related to your June 1<sup>st</sup> request for information.

Sincerely,



Elizabeth Warren  
United States Senator