

April 28, 2011

The Honorable Tom Harkin
Chairman
Senate Committee on Health, Education,
Labor and Pensions
428 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Michael Enzi
Ranking Member
Senate Committee on Health, Education,
Labor and Pensions
835 Hart Senate Office Building
Washington, DC 20510

RE: Payroll Fraud Prevention Act – S.770

Dear Chairman Harkin and Ranking Member Enzi:

The Financial Services Institute¹ respectfully opposes S.770, the Payroll Fraud Prevention Act. If enacted, this piece of legislation would have potentially devastating unintended consequences on independent broker-dealers (IBDs), their affiliated independent financial advisors (IFAs), and most importantly, the middle class clients they serve.

IBDs have a long history of properly classifying their IFAs as independent contractors in accordance with the IRS Code. FSI is concerned that S.770 introduces significant uncertainty that will have a profound negative impact on this important segment of the financial services industry. IBDs and IFAs operate in a heavily regulated and well-documented industry in which cash payment for services is strictly prohibited. IFAs have a long history of appropriate classification as independent contractors under current federal law and are not involved in the worker classification problems found in other industries. In fact, IFAs choose to affiliate with IBDs so they can own and operate their own small business and exert greater control over the means of its operation.

Legitimate independent contractors, such as our members, would be severely harmed by the bill because it would increase costs to comply with the additional record keeping and disclosure requirements, resulting in reduced or limited access to advice and services to lower- and middle-class Americans. If enacted, the Payroll Fraud Prevention Act would ultimately hinder American business innovation and employment growth. This is not the time to place additional burdens on businesses when trying to revitalize our nation's economy.

Thank you very much for your consideration. If you have any questions, feel free to contact me directly at (202) 379-0943.

Respectfully submitted,



Dale E. Brown, CAE
President & CEO

¹ The Financial Services Institute, Voice of Independent Broker-Dealers and Independent Financial Advisors, was formed on January 1, 2004. Our members are broker-dealers, often dually registered as federal investment advisers, and their independent contractor registered representatives. FSI has 126 Broker-Dealer member firms that have more than 183,000 affiliated registered representatives serving more than 15 million American households. FSI also has more than 16,000 Financial Advisor members.