

February 3, 2020

The Honorable Nancy Pelosi  
Speaker of the House  
H-222, U.S. Capitol  
Washington, D.C. 20515

The Honorable Kevin McCarthy  
House Minority Leader  
H-204, U.S. Capitol  
Washington, D.C. 20515

Dear Speaker Pelosi and Minority Leader McCarthy:

As the Chief Executive Officers of trade associations that collectively protect the financial security of more than 90 million American families, we are writing to express our members' strong concerns with H.R. 2474, The Protecting the Right to Organize (PRO) Act. This legislation seeks to change the definition of "independent contractor" in a way that would cause significant disruption to the independent financial services industry and the consumers we serve.

The current model provides financial services professionals with multiple avenues for advising and helping American families and businesses build secure financial futures. Some choose to engage in this work as employees, while many others prefer the freedom and independence that comes from being independent contractors so that they can exert greater control over their own business. Many have substantial relationships with one or more insurance companies, broker dealers, or registered investment advisers, which allows them to offer multiple products to their customers. These small business owners enter into written agreements with insurance companies (or general agents of insurance companies), broker dealers or registered investment advisers that carefully set forth the terms of the independent contractor status. It would be enormously disruptive to negate these agreements through Federal legislation.

By effectively reclassifying independent contractors as employees, the PRO Act would create unintended consequences for the industry, and specifically insurance producers, independent broker dealers and independent financial advisors. These individuals are vital to ensuring that Main Street Americans have access to the important advice, products and services necessary to achieve their financial goals. The PRO Act's "ABC test" could eliminate the choice a majority of practitioners have made to serve clients independently. In turn that could drastically reduce consumer's ability to access high quality advice for their insurance and retirement security needs.

Additionally, affiliated financial advisers have a long history of appropriate classification as independent contractors and are not involved in the worker classification problems found in other industries. They are not employees for purposes of determining applicability of federal (ERISA and EEO1) reporting requirements and State wage and benefit provisions. Compensation practices in the securities industry are carefully recorded, with IRS Form 1099 reporting universally required. As a result, the problems of cash payments and unreported income that may exist in other industries do not exist in the securities and insurance professions. Furthermore, the insurance and independent broker dealer business models reflect the reality that these financial services professionals are primarily engaged in sales activities, often sell products of multiple companies, and are not subject to the right of direction and control characteristic of an employer-employee relationship.

As you consider H.R. 2474, we hope that you will be mindful of the negative impact that this legislation will have on consumers and the agents working to ensure that their clients have the resources to make wise financial decisions and ensure financial security for themselves and their families.

Sincerely,

Susan K. Neely  
American Council of Life Insurers

Marc Cadin  
Association for Advanced Life Underwriting

Dale Brown  
Financial Services Institute

Wayne Chopus  
Insured Retirement Institute

Chuck DiVencenzo  
National Association for Fixed Annuities

Kevin Mayeux  
National Association of Insurance and Financial Advisors