

July 21, 2021

The Honorable Patty Murray  
Chairwoman  
U.S. Senate HELP Committee  
428 Senate Dirksen Office Building  
Washington, D.C. 20510

The Honorable Richard Burr  
Ranking Member  
U.S. Senate HELP Committee  
42 Senate Dirksen Office Building  
Washington, D.C. 20510

Dear Chairwoman Murray and Ranking Member Burr:

As the Chief Executive Officers of trade associations that collectively represent more than 100,000 individual small business owners, broker-dealers and insurance companies providing financial services to more than 112 million American families, we are writing to express our members' strong concerns with S. 420, 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 and property casualty insurance industries and the customers we serve.

The current model provides financial services professionals with multiple avenues for advising and helping American families and businesses build secure financial futures and protect their assets. Some choose to engage in this work as employees, while many others prefer the freedom and independence that comes from operating their own business utilizing the independent contractor status. Many have substantial relationships with one or more insurance companies, broker dealers, or registered investment advisors, which allows them to offer expanded options 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 advisors 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 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 and protect their homes, families and businesses. In times of catastrophe, insurers engage independent contractors to provide a faster response for consumers experiencing loss. 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 clients' ability to access high quality advice for their insurance, investment and retirement security needs.

Additionally, affiliated financial advisors 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 industry and independent broker dealers are highly regulated.

As you consider S. 420 at tomorrow's hearing, we hope that you will be mindful of the negative impact that this legislation will have on customers, agents and advisors 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

Jim Hodges  
National Alliance of Life Companies

David A. Sampson  
American Property Casualty Insurance  
Association

Chuck DiVencenzo  
National Association for Fixed Annuities

Christopher A. Iacovella  
American Securities Association

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National Association of Health Underwriters

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Wayne Chopus  
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Kenneth E. Bentsen, Jr.  
Securities Industry and Financial Markets  
Association