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Via email to lindsey_seidman@help.senate.gov

Committee on Health, Education, Labor & Pensions
428 Senate Dirksen Office Building
Washington, DC 20510

Dear Chair Murray and Ranking Member Burr:

The Alternative & Direct Investment Securities Association (ADISA)¹ is writing to express our members' strong concerns with H.R. 842, The Protecting the Right to Organize (PRO) Act. This legislation seeks to change the definition of "independent contractor" as applied to the many financial professionals who act as independent contractors for their financial services firms, the consequences would include adding to the wealth gap, negatively impacting savers, investors, and minorities² as well as causing significant disruption to independent financial services professionals and the clients they serve.

While we can certainly understand the need to review labor laws and policies, the *current* model provides financial services professionals with multiple avenues for helping American families and businesses build secure financial futures and protect their assets and their ability to grow and climb with access to wealth creation and savings. Some of these advisers choose to engage in this work as employees, while many others prefer the freedom and independence that comes from operating their own business using an independent contractor status. Many have substantial

¹ADISA is the largest association of the retail direct investment industry in the United States. With ADISA has approximately 4,500 members who employ over 220,000 investment professionals, together serving the interests of more than 2 million investors throughout the country. Direct and alternative investment programs serve a critical need in the creation and ongoing management of diversified investment portfolios.

²See Kim, Kyoung Tae, Soo Hyun Cho, and Sharon A. DeVaney. "Racial/ethnic differences in holding a retirement saving motive: A decomposition analysis." *Journal of Consumer Affairs* (2021), and for a summary of earlier studies indicating the need for increased financial advice and services to minority communities, see the Social Security Administration's report at <https://www.ssa.gov/policy/docs/ssb/v64n4/v64n4p1.html>

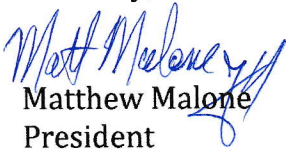
relationships with one or more insurance companies, broker dealers, or registered investment advisors, which allows them to offer expanded options to their clients. These small business owners enter into written agreements with insurance companies (or general agents of insurance companies), broker dealers 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 disrupt financial services with unintended negative consequences for the investor specifically by destroying the independent financial advisor model. These individual advisors 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, independent broker dealers are already highly regulated.

For these reasons we ask that any movement of H.R. 842 out of the U.S. Senate Committee on Health, Education, Labor & Pensions not include changes to the current definition of "independent contractor". We appreciate you taking the time to review our concerns and please do not hesitate to reach out with any questions.

Sincerely,


Matthew Malone
President