

**Congress of the United States**  
**Washington, DC 20515**

June 4, 2015

The Honorable Thomas E. Perez  
Secretary  
U.S. Department of Labor  
200 Constitution Ave, NW  
Washington, DC 20210

Dear Secretary Perez:

Despite pleading guilty last week to felony charges, five megabanks will continue doing business as if no crimes were committed and, so far, suffer no collateral consequences. As you know, four of these institutions have already requested waivers from the Department of Labor's bad actor disqualifications so that they may continue to engage in certain business lines in the United States. In determining whether to grant these waivers, we urge you to give due weight to the seriousness of their criminal behavior, their extensive recidivist history, and the need to protect our nation's workers and retirees from these bad actors who have admitted to misappropriating client information and overcharging them for over five years. Consistent with its statutory duty, the Department should hold a public hearing and thoroughly review the waiver requests and any comments it receives.

Recently, the Department of Justice (DOJ) announced that Barclays, JPMorgan Chase, Citigroup and the Royal Bank of Scotland have agreed to collectively pay \$2.52 billion in fines and plead guilty to criminal antitrust violations for rigging the price of foreign currencies. UBS, as a result of this same misconduct, was found to be in violation of its 2012 nonprosecution agreement related to its rigging of the London Inter-Bank Offer Rate, or LIBOR. Consequently, UBS agreed to plead guilty to wire fraud in connection with a scheme to manipulate LIBOR and other benchmark interest rates and pay a criminal fine of \$203 million.

According to the DOJ, between December 2007 and January 2013, traders at the banks – using the monikers “The Cartel” or “The Mafia” – communicated and conspired in an online chat room to manipulate the U.S. dollar–euro exchange rates. This rate not only affects the price of imported goods, but also many investments held by pension funds and others. In addition, bank employees intentionally disclosed information relating to the identity of clients or the nature of clients' activities to third parties and lied to clients to collect undisclosed markups. The five banks accounted for 25 percent of the \$500 billion-a-day dollars-to-euros spot market.

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As you know, under the law, the criminal conviction of these banks in court following these guilty pleas will automatically disqualify them from acting as asset managers in otherwise prohibited conflict-of-interest transactions with Employee Retirement Income Security Act (ERISA) - covered plans and individual retirement accounts (IRAs) as a "qualified professional asset manager," or QPAM. According to the guilty pleas, each of the five bad actor banks will seek waivers from the Department of Labor for this disqualification, and it is our understanding that the Department has already received waiver requests from Barclays, JP Morgan, RBS, and Citigroup. In order to ensure that the harmful impacts of these banks' actions are held up to public scrutiny and to promote transparency in the decision-making process of the Department, each of these waiver applications must be the subject of a public hearing.

We are deeply disappointed that the Securities and Exchange Commission, in waiving similar collateral consequences, rubber-stamped ten waivers for these institutions with zero transparency or public input. We encourage you to not make this same mistake. In particular, the Department of Labor should establish a more rigorous, fair, and public process as standard practice for determining whether to waive these disqualifications and employ that process in this case.

Every day, we hear from our constituents and other members of the public an increasing frustration with the two-tiered system of justice that puts low-level offenders in jail while the rich and powerful on Wall Street buy their way out of trouble. Rather than continuing this double standard, we must work together to ensure that these megabanks are subject to the same collateral consequences in our laws. In this instance, that means rejecting a too-big-to-bar policy of reflexively granting waivers and fully utilizing the disqualification provisions to deter future misconduct and to protect retirees, investors, and the American public.

Sincerely,

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