



December 2, 2025

The Honorable Rick Allen  
Chairman  
Subcommittee on Health, Employment, Labor, and Pensions  
House Committee on Education and Workforce  
2176 Rayburn House Office Building  
Washington, DC 20515

Dear Mr. Chairman:

I write to thank you for calling today's hearing of the Subcommittee on Health, Employment, Labor, and Pensions entitled, "Pension Predators: Stopping Class Action Abuse Against Workers' Retirement." Certainly, National Retail Federation (NRF) is concerned with the increase in meritless lawsuits under the Employee Retirement Income Security Act of 1974 (ERISA). NRF respectfully requests that this letter be made a part of the official record of today's hearing.

The National Retail Federation passionately advocates for the people, brands, policies and ideas that help retail succeed. From its headquarters in Washington, D.C., NRF empowers the industry that powers the economy. Retail is the nation's largest private-sector employer, contributing \$5.3 trillion to annual GDP and supporting more than one in four U.S. jobs — 55 million working Americans. For over a century, NRF has been a voice for every retailer and every retail job, educating, inspiring and communicating the powerful impact retail has on local communities and global economies.

One area of concern for NRF members is the spate of lawsuits concerning usage of forfeited non-vested retirement plan contributions. Employees are always fully vested in their own contributions, as ERISA requires. To encourage retention however, employer contributions may be subject to vesting schedules. When employees leave before vesting, those contributions are forfeited. Once money is contributed to the plan, however, it must stay in the plan. As such, for decades, the Department of the Treasury (Treasury) has allowed plan sponsors to use such funds to offset future employer contributions, pay plan expenses, or both.

In the past two years, there have been nearly 80 class actions lawsuits claiming that using forfeitures as matching contributions for current active participants is a breach of fiduciary duty under Title I of ERISA. NRF is concerned that this litigation threatens to erode the longstanding understanding of the legality of such practices. Employers who voluntarily sponsor defined contribution retirement plans should not face liability for doing exactly what federal regulators have long authorized.

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Congress should act to protect employers and employees alike from disruptive and costly litigation by reaffirming the long-standing practice of allowing employers to use forfeitures to offset future employer contributions, cover plan expenses or both. Millions of Americans rely upon these retirement plans, and employer sponsors must be able to depend on the clear and consistent rules that have governed plan administration for decades.

Sincerely,

A handwritten signature in black ink, appearing to read "David French". The signature is stylized and cursive.

David French  
Executive Vice President  
Government Relations