

AMENDMENT TO H. J. RES. 30
OFFERED BY MR. DONALDS OF FLORIDA

At the end of the resolution, add the following:

1 Section 404(a) of the Employee Retirement Income
2 Security Act of 1974 (29 U.S.C. 1104(a)) is amended by
3 adding at the end the following:

4 “(3)(A) In the case of a pension plan that pro-
5 vides for individual accounts and permits a partici-
6 pant or beneficiary to exercise control over the as-
7 sets in the participant’s or beneficiary’s account,
8 nothing in paragraph (1)—

9 “(i) requires a fiduciary to select, or pro-
10 hibits a fiduciary from selecting, any particular
11 type of investment alternative, provided that a
12 fiduciary provides the participant or beneficiary
13 an opportunity to choose, from a broad range of
14 investment alternatives, the manner in which
15 some or all of the assets of the participant’s or
16 beneficiary’s account are invested, according to
17 regulations prescribed by the Secretary; or

18 “(ii) requires that any particular type of
19 investment be either favored or disfavored,
20 other than on the basis of the investment’s risk-

1 return characteristics, in the context of the plan
2 fiduciary's objective of providing investment al-
3 ternatives suitable for providing benefits for
4 participants and beneficiaries.

5 “(B) In the event that a fiduciary selects a self-
6 directed brokerage window as an investment alter-
7 native for a plan described in subparagraph (A)—

8 “(i) the Secretary shall not issue any regu-
9 lations or subregulatory guidance constraining
10 or prohibiting the range or type of investments
11 that may be offered through such brokerage
12 window;

13 “(ii) subsection (c) shall apply to such self-
14 directed brokerage window; and

15 “(iii) the diversification requirement of
16 paragraph (1)(C) and the prudence requirement
17 of paragraph (1)(B) are not violated by the fi-
18 duciary's selection of a self-directed brokerage
19 window as an investment alternative or as a re-
20 sult of the exercise of a participant or bene-
21 ficiary's control over the assets in such self-di-
22 rected brokerage window.”.

