



Consumer Federation of America



CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.



Fund Democracy



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Investor and Adviser Groups Voice Opposition to Weakened Fiduciary Standard

In letter to SEC Chair White, group urges focus on investor protection

Washington, D.C. – In a [letter](#) to Securities and Exchange Commission (SEC) Chair Mary Jo White, a broad-based coalition of organizations today urged the agency to establish a uniform fiduciary standard for broker-dealers and investment advisers that is at least as strong as the existing standard for investment advisers and asserted vigorous opposition to any rule that would weaken investor protections. The group comprises like-minded organizations advocating for the extension of a client-first fiduciary standard to broker-dealers providing personalized investment advice to retail customers.

The letter outlines the group's concerns that the SEC's March Request For Information (RFI) signals that the SEC may be backing away from requiring a fiduciary standard for broker-dealers that is "no less stringent" than the one under which registered investment advisers currently operate.

Section 913 of Dodd-Frank required SEC staff to analyze standards of care applicable to investment advisers and broker-dealers and it recommended that the standard of care should be what is in the best interests of the consumer without regard to business model.

"The assumptions contained in the RFI fail to include key elements of the fiduciary standard such as the obligation to act in the best interest of the customer. If the fiduciary duty is based on the RFI assumptions, it would be weaker than that originally set forth in the Section 913 Study and far less stringent than that currently imposed under the Advisers Act," stated the group in its jointly signed letter. "If the SEC were to adopt this approach, we fear that it would significantly weaken the fiduciary standard for SEC-registered investment advisers, while adding few new protections for investors who rely on broker-dealers for investment advice. This approach would have negative consequences for investors and is one we would vigorously oppose."

The organizations signing the letter are: *AARP, American Institute of Certified Public Accountants, Certified Financial Planner Board of Standards, Consumer Federation of America, Financial Planning Association, Fund Democracy, Investment Adviser Association, National Association of Personal Financial Advisors and the North American Securities Administrators Association.*

Comments from each of the organizations signing the letter:

“Broker-dealers call their sales representatives financial advisers, they market themselves based on the advice they offer, and they encourage investors to rely on them as trusted advisers. It is hardly surprising then that most investors make no distinction between brokers and advisers and that disclosure is ineffective in eliminating that investor confusion. That is presumably a key reason Congress, in drafting Section 913 of the Dodd-Frank Act, specified that any new standard for brokers must be the same as the standard for advisers and no weaker than the existing standard under the Advisers Act. While we remain optimistic that the SEC can craft a regulatory approach that provides much needed strengthened protections for investors – a standard that CFA can support – doing so will require the agency to radically rethink the assumptions in the recently issued request for information and to adopt a far more investor protective approach.”

- **Barbara Roper**
Director of Investor Protection, Consumer Federation of America

“Older Americans need to know that the people who are helping them save for retirement, as well as those managing their savings throughout retirement, are indeed putting their interests first. It is more than reasonable to have broker-dealers – who are often providing advice to clients – held to the same standard as investment advisers. Extending the fiduciary standard will help protect investors and reduce consumer confusion. We encourage the SEC to stand firm and not retreat from implementing a client-first fiduciary standard.”

- **Joyce A. Rogers**
Senior Vice President, Government Affairs, AARP

“The SEC has assumed that there will be multiple fiduciary standards that apply to personalized investment advice, which will create more confusion and engender conflicts among, for example, federal laws that apply to broker-dealers and investment advisers. The SEC’s approach will exacerbate the already dysfunctional regulation of personalized investment advice.”

- **Mercer Bullard**
President and Founder, Fund Democracy

“State securities regulators urge the SEC to exercise its discretion, pursuant to Section 913 of the Dodd-Frank Act, to engage in rulemaking to subject broker-dealers to a fiduciary duty, which should be no less stringent than the standard codified in the Investment Advisers Act. While there may be some debate about the precise parameters of the application of the duty to broker-dealers, it cannot be seriously debated that when enacting Section 913, Congress ever intended to lower the standards currently applicable to investment advisers. The goal was always to raise the standard of conduct of brokers to align with investment advisers. Such an alignment would enhance investor confidence in the financial services industry, the products they are being advised to purchase and the securities markets overall.”

- **A. Heath Abshire**
President, NASAA

“Fairness is at the heart of the debate surrounding the need for a fiduciary standard. Whether saving for retirement or their children’s college education, American investors should get advice that is best for *them* and not their financial adviser. And an adviser’s duty to an investor should not depend on who is regulating that adviser. We urge the SEC to stay true to Congress’ intent in Dodd-Frank and give American investors what they deserve – investment advice from an adviser who has a fiduciary duty to act in their best interests at all times. ”

- **Kevin R. Keller, CAE**
Chief Executive Officer, CFP Board

“The Commission’s RFI does not appear to incorporate the most crucial aspect of fiduciary duty – that the overarching duty to act in the client’s best interest is an ever-present overlay to all of the other duties, rules, and assumptions discussed in the RFI. Indeed, the RFI seems to contemplate simply adding disclosure requirements to existing broker-dealer rules and labeling the result a fiduciary standard. We would oppose such an approach as watering down the Advisers Act fiduciary standard.”

- **David G. Tittsworth**
Executive Director, Investment Adviser Association

“Relying on disclosures to sidestep working in the best interest of the client is inconsistent with the Advisers Act of 1940 and would weaken the existing fiduciary standard for registered investment advisers. Full disclosure plays an important part of the fiduciary relationship between an adviser and client, but it does not replace loyalty, ongoing duty of care, or managing conflicts or avoiding them where possible. We would strongly oppose a standard where disclosure displaces principles based advice.”

- **Lauren Locker, CFP®**
National Chair, NAPFA

“Requiring a fiduciary standard of broker-dealers doesn’t mean they need to stop earning commissions or providing services to middle class clients. Rather, it means that they need to put their clients’ interests first by, among other things, fully disclosing and appropriately managing conflicts of interest. Financial planners, who have voluntarily embraced the fiduciary standard, have demonstrated that it can be applied successfully across business models for the benefit of both clients and advisors.”

- **Michael Branham, CFP®**
President, Financial Planning Association

“Investors cannot be put in a position of trying to determine when their advisers are required to work in their best interest and when they are not. We urge the SEC to establish a fiduciary standard for broker-dealers giving investment advice that truly protects investors by requiring a continuing duty, as currently exists for investment advisers, to put the investors’ interests first.”

- **Barry C. Melancon, CPA, CGMA**
President and CEO, AICPA