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INVESTMENT ADVISER  
ASSOCIATION



CERTIFIED FINANCIAL PLANNER  
BOARD OF STANDARDS, INC.

FPA  
FINANCIAL PLANNING ASSOCIATION  
*The Heart of Financial Planning™*



May 18, 2010

Dear Senator:

We are a group of diverse organizations that share the view that those who give investment advice should be required to act in the best interests of their clients. We are writing to voice our opposition to Amendment No. 4009, filed by Sen. Susan Collins, as it fails to deliver on the promise of fiduciary protections. Instead, we wholeheartedly support Amendment No. 3889, offered by Sens. Daniel Akaka, Robert Menendez, and Richard Durbin.

The Collins amendment includes a loophole where fiduciary protections are needed most – for customers of brokers who sell only proprietary or a limited range of products. Worse, it could have the perverse effect of incentivizing brokers to recommend products that do not require them to put their clients' interests first. If the amendment were to pass, these brokers would remain free to recommend products that are in their own interests, rather than the best interests of the customer, while receiving particularly generous commissions. And they could do so without providing adequate disclosures about either their conflicts of interest or the limitations on any "advice" they offer. The amendment does not even do anything to prevent them from misleading investors by holding themselves out as advisers.

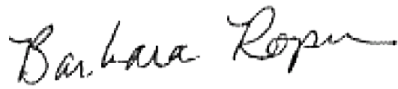
This is troubling for two reasons. The typical clients of these brokers are among the least sophisticated investors. Often of only modest incomes, they can ill afford to have their limited investment resources depleted by products with high costs and poor performance. This problem is exacerbated by the fact that the amendment would exempt from fiduciary requirements recommendations of variable annuities, a product that has been the subject of numerous abuses and repeated investor alerts by the SEC, state securities regulators (NASAA), and FINRA. Unfortunately, many of these abuses involve elderly individuals. Imposing a fiduciary duty on these product recommendations would give regulators a much needed tool to ensure that variable annuities are only sold when they are in the customer's best interests and with appropriate disclosures about costs and conflicts of interest. The Collins amendment would deny investors these important protections.

Instead, we support the Akaka-Menendez-Durbin amendment (#3889). This amendment directs the SEC to issue rules requiring brokers who provide personalized investment advice to retail customers to have the same fiduciary duty as investment advisers. The Akaka-Menendez-Durbin amendment adopts a reasonable balance, for example, by clarifying that the sale of proprietary or other limited range of products is permitted but must be conducted in accordance with appropriate standards. For example, under a fiduciary duty, brokers who sell proprietary or

other limited range of products would be required to disclose the limitations on their advisory services and the conflicts of interest associated with that business model.

Investors deserve to know that all those who provide investment advice are required to act in their best interests. We therefore urge you to oppose the Collins amendment and instead to support the Akaka-Menendez-Durbin amendment, which would ensure that *all* customers of brokers are appropriately protected.

Respectfully submitted,



Barbara Roper  
Director of Investor Protection  
CFA



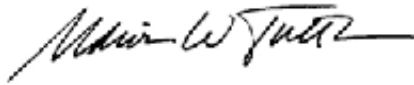
Denise Voigt Crawford  
President  
NASAA



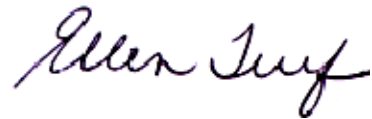
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