



Consumer Federation of America

INVESTMENT ADVISER
ASSOCIATION



CERTIFIED FINANCIAL PLANNER
BOARD OF STANDARDS, INC.

FPA.
FINANCIAL PLANNING ASSOCIATION
The Heart of Financial Planning™



June 14, 2010

Dear [conferee]:

As organizations representing a diverse group of Americans, we write to you with a common goal: to urge adoption of the House language extending the fiduciary standard of care to all financial professionals who give investment advice. Financial regulatory reform presents an historic opportunity to improve investor protection for Americans and restore confidence in the market. Requiring all financial professionals to act in the best interests of their customers when they provide investment advice is the single most important thing you can do in this regard for average Main Street investors.

Many Americans assume that those they turn to for advice in planning retirement or paying for a child's education are required to act in their best interest. Polls show that they overwhelmingly believe that this ought to be the case. Unfortunately, under current law, broker-dealers can call themselves financial advisors and offer extensive advisory services without meeting the same fiduciary standard to act in the best interest of their customers to which all other investment advisers are held. Instead, under the suitability standard that applies to securities sales, brokers may recommend comparable products with higher costs, poorer performance, or that are a poorer match for the customer, as long as the product is generally suitable. And they do not even have to disclose the financial incentives that may encourage them to do so.

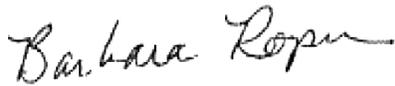
But it is not just in the commonly understood securities sales business where suitability fails as an adequate standard for advice. Insurance agents are licensed as brokers in order to sell variable annuities. Held to a suitability standard, these agent/brokers may recommend variable annuities that are not necessarily in their clients' best interests. And then there are too many who fail to meet even a suitability standard when advising clients. Abusive sales of variable annuities have made NASAA's annual list of top investment scams several times and were similarly identified as a problem area in a joint SEC-FINRA-NASAA Investor Alert on schemes to defraud senior investors. Ensuring that brokers who give advice about these investment products are held to the same "customer first" standard that investment advisers are would arm regulators with new tools to better protect investors.

The study requirement contained in the Senate bill was adopted as an alternative to the original Senate provision, which would have required all brokers who give investment advice to be regulated under the Investment Advisers Act of 1940. Not only does the Senate bill delay reform while a study is being conducted, but, as currently written, it also fails to provide the SEC with the authority it would need to solve the problem.

The House provision takes a much different approach, simply requiring the SEC to adopt rules under the Securities Exchange Act of 1934 to apply the fiduciary standard of care to brokers when they give investment advice. Moreover, it fully addresses the concerns that led to the Senate study proposal in the first place, by eliminating the possibility that all brokers would be subject to the Investment Advisers Act and ensuring that the fiduciary duty is applied in a way that accounts for various relationships that broker-dealers have with their customers. Specifically, it confirms that brokers subject to the fiduciary duty would remain able to charge commissions, sell proprietary products, and sell from a limited menu of products, all without running afoul of the fiduciary duty. In addition, it makes clear that brokers who give one-time, transaction-based advice would not be subject to an ongoing duty to monitor customer accounts.

Investors cannot afford to wait several more years for this long-overdue reform to be adopted. The House bill represents a reasonable compromise that addresses both investor and industry concerns. We urge you to support inclusion of this provision in the final conference report.

Sincerely,



Barbara Roper
Director of Investor Protection
CFA



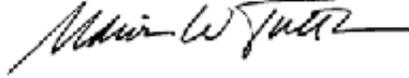
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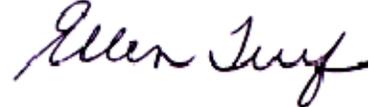
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