IAA Principles and Recommendations for Regulatory Reform

The Investment Adviser Association (IAA) is a not-for-profit organization representing the interests of SEC-registered investment advisory firms. The IAA's more than 500 members provide investment advice to a wide variety of high net worth individuals and institutional clients, including endowments, foundations, pensions, and mutual funds.

The Association played a major role in the enactment of the Investment Advisers Act of 1940, under which investment advisers that manage more than $25 million in assets are registered and regulated by the Securities and Exchange Commission. The law vests the SEC with broad anti-fraud authority and subjects investment advisers to a fiduciary duty. As fiduciaries, investment advisers have an affirmative duty to act in the best interests of their clients and to make full and fair disclosure to clients regarding conflicts of interest.

The IAA is persuaded that the recent financial crisis requires policy makers to consider a broad range of issues and actions. We believe the following broad principles and recommendations will be helpful in addressing regulatory reform:

- The root causes of the financial crisis – including subprime loans, securitization of mortgage instruments, and over-leverage – must be examined and addressed by Congress, the Administration, regulators, and other policy makers.

- Congress and regulators should focus on unregulated services and products that contributed to the financial crisis:

  - The IAA continues to support centralized registration and regulation of hedge fund managers by the SEC.

  - The IAA supports far stronger oversight and transparency of credit default swaps and other complex financial derivatives.

- Congress should determine whether the laws and regulations governing banks and securities firms that contributed to the financial crisis are appropriate and effective.

- Congress should consider consolidating certain government agencies, including merging the CFTC into the SEC, in order to ensure more effective regulation, efficiency, and accountability.

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- Congress should consider the key elements of the Investment Advisers Act of l940 in the regulatory framework for other financial service functions – a fiduciary duty (which includes the duty to place the interests of your client above your own interests at all times), coupled with broad anti-fraud authority and full and fair disclosure obligations overseen by a single direct regulator (SEC).

Finally, in effecting regulatory reform of the financial services industry, policy makers should be mindful of two maxims. First, managerial reorganization (*i.e.*, creating new regulatory authorities or shuffling, merging or eliminating existing regulators) does not itself constitute regulatory reform. Second, policy makers should "do no harm" in revising existing laws and regulations. Where investors' interests are protected and the industry effectively regulated, policy makers should not create new and additional regulatory requirements.

In addition to these principles and recommendations for broader reform, the IAA recommends that the SEC and other regulators continue to study specific measures to address the current market environment, including whether reinstatement of the so-called uptick rule would be beneficial.