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August 25, 2010

Ms. Elizabeth M. Murphy  
Secretary  
Securities and Exchange Commission  
100 F Street NE  
Washington, DC 20549-1090

Re: Request for Comment to Inform Study Regarding Obligations of Brokers, Dealers, and Investment Advisers (Release No. 34-62577; IA-3058; File No. 4-606)

Dear Ms. Murphy:

I am writing in response to the Securities and Exchange Commission ("Commission's") request for public comment to inform its study of the obligations and standard of care of brokers, dealers, and investment advisers when providing personalized investment advice about securities to retail customers. I am a life insurance producer, and my principal source of business is the sale of life insurance products to retail customers. Some of the products I offer subject me to regulation by the Commission and the Financial Industry Regulatory Authority ("FINRA").

I have been engaged in the financial services industry since 1973 and formed my own firm in 1993. As an Investment Advisor Representative of Hornor, Townsend & Kent (HTK), I have provided my clients with a wide spectrum of insurance and investment products, including variable life and annuities. In every instance I have had lengthy discussions with my clients as to what is suitable for them, explaining the costs, fees and compensation. This not only helps them make informed decisions, but it creates a better relationship between my clients and me. The relationships I've created over 37 years are invaluable to me and it's the only thing that separates me from my competition.

I therefore appreciate your efforts to obtain information from the public and conduct a comprehensive and objective study, before deciding whether to propose new regulations. I am hopeful that opportunities for input from financial professionals will continue as the process unfolds.

Every year I am subject to compliance audits by both my broker dealer, HTK, as well as my field leader. In addition I am obligated to attend an annual compliance meeting as well as complete online compliance courses. In both cases, I am required to verify my attendance and completion of these programs.

I currently am subject to an array of state insurance regulations and oversight for the sale of fixed and variable insurance products. When providing recommendations to my clients, I must consider factors such as the client's current financial status, needs, and goals; age, family, general health, and existing medical conditions; and the client's credit history. These factors must be evaluated before even determining whether a fixed or variable product is appropriate. As a representative of an insurance carrier, I must also

weigh the carrier's medical and financial underwriting standards, current financial stability, and claims-paying record, among a variety of other considerations.

State insurance regulators play a central role in overseeing the sale of insurance products and the market conduct associated with these transactions. My contractual obligations to the carrier require me to comply with all requests and exams and adhere to any conduct regulations and guidelines enforced by the carrier.

As a life insurance producer who sells variable insurance products, I am also subject to the Commission's and FINRA's broker-dealer regulations in all respects. These require, among other things, that we treat customers fairly and abide by just and equitable principles of trade, including suitability obligations. Our interaction with each client is extensively regulated and must be completely transparent; we are required to confirm all communications, provide account statements, and disclose conflicts of interest—which could include information about licensing, company affiliation, and receipt of commissions. Supervisory personnel must review all sales recommendations and review for compliance with a multitude of FINRA and Commission regulatory requirements. These requirements are extensive, well-known, often product-specific, and capable of being monitored and audited by supervisory personnel, as well as FINRA and the Commission.

FINRA regularly audits broker-dealers, and examiners typically review an array of transaction data, client correspondence, firm financial statements and procedures, and general supervisory structures. After the audit, broker-dealers typically have a brief period to provide comments on the regulators' findings and make any necessary corrections.

I fully understand the Commission needs to identify the areas where there are gaps in existing regulations. In comparing the investment adviser and broker-dealer regulatory regimes, the broker-dealer regulatory regime provides better guidance to registered representatives and their supervisors, and therefore better protection to their customers, because the rules are clear and specific, and the conduct of registered representatives is capable of being monitored and audited. By contrast, the principles-based nature of the investment adviser regulatory regime is more difficult to follow and enforce.

One of the most significant gaps in regulation is the lack of inspections and examinations of investment advisers. The fiduciary duty of investment advisers gives scant protection to investors in light of the infrequency of Commission examinations. Most small advisers have no federal regulation and oversight whatsoever, whereas insurance producers who sell variable insurance products must respond to examinations and audits at both the federal and state level, and are subject to regulation by both insurance and securities regulators. These gaps and shortcomings in oversight of advisers is an area of investor protection that the Commission should address first, before changing any standards of care for brokers. In other words, the need (if any) to adopt a "uniform" standard of care for broker-dealers and investment advisers pales in comparison to the need to adopt uniform standards for examination and inspections of securities professionals.

If the issue of investor confusion over the legal obligations of the investor's particular financial service provider is a point of concern—as has previously been suggested in published research reports—there are remedies currently available to address the confusion. Existing FINRA and Commission rules are extensive, but those rules, if necessary, could be supplemented with additional disclosures of the role in which a financial services professional is operating, including additional disclosures of the existence of any conflicts. I believe investors, if presented with appropriate information, can make a choice that is right for them. Disclosure is a far better alternative than eliminating investor choices by attempting to make all financial professionals the same.

I have serious concerns about the possible adoption of a new 'best interest' standard for broker-dealers,

and by extension, life insurance producers who sell variable insurance products. I believe such a general standard will create liability and uncertainty, but will provide no measurable benefit to investors. Who is going to clearly define “best interest?” Does it mean providing the cheapest insurance to a client, regardless of the financial stability of the underlying company? In that instance, the client is not provided with the best product to meet his or her needs, if the company cannot pay the claim. Does it mean that we ignore clients who cannot afford fee based accounts because their assets do not meet practical minimums for that type of platform? If that is the case we exclude a significant portion of the population who is currently being served by the current mutual fund products. More importantly, in the ever-changing world of investments, a product or program that was suitable for a client today could be unsuitable for them in the future due to changes in their circumstances. Does that mean the advisor did not, or does not have their “best interest” in mind? If the Commission finds in its study that there are gaps in investor protection in the current regulation of brokers and dealers, then I would encourage you to propose specific rules designed to address specific conduct. None of us likes new rules, but I believe a FINRA rules-based approach offers the best opportunities for compliance by brokers, and, therefore, the protection for investors.

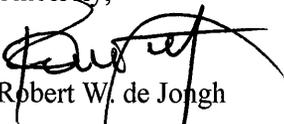
While it is difficult to ascertain the practical impact of a general ‘best interest’ standard, it most certainly will result in increased compliance costs -- again, with no measurable benefit to investors. Over time, I believe it will reduce product choice and access for investors.

It is my sincere hope that all financial professionals hold their clients in the highest regard and provide investors with the first-class service that enables them to accomplish their financial goals. However, writing rules that are difficult to define and perhaps more difficult to implement and enforce will not achieve this brand of conduct, nor will it create a better or safer financial landscape for investors.

I strongly encourage the Commission to consider the input of life insurance producers, as well as our unique role in the marketplace and the fundamental nature of the products we sell when moving forward with its study of the obligations and standards of care for broker-dealers and investment advisers. Again, I thank the Commission for the opportunity to comment and welcome future opportunities to provide input.

Thank you for your time and for the opportunity to comment on this very important piece of legislation.

Sincerely,



Robert W. de Jongh

RWd/hmc