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August 30, 2010

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

Re: File No. 4-606:
Study Regarding Obligations of Brokers, Dealers and Investment Advisers

Dear Ms. Murphy:

I am the Chairman of the Board of AXA Advisors, LLC (AXA Advisors), a firm registered with the Securities and Exchange Commission (SEC) as a broker-dealer and investment adviser. I am also a senior executive vice president for AXA Equitable Life Insurance Company (AXA Equitable), a provider of financial protection, wealth management and retirement savings products and services in the United States. AXA Advisors and AXA Equitable are part of AXA Group, one of the largest global financial services organizations.

I am submitting this letter in response to the SEC's request for comments to assist the SEC in conducting a study (Study) mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) on standards of care for broker-dealers and investment advisers who provide personalized investment advice and recommendations about securities to retail customers.

I urge the SEC to give serious and thoughtful consideration to our comments. As will be made clear below, given AXA Advisors' and AXA Equitable's business activities, we have a vital stake in the issues raised by the Study.

AXA Advisors and AXA Equitable. As noted above, AXA Advisors is registered as both a broker-dealer and investment adviser, sometimes referred to as a "dual registrant." AXA Advisors provides retail broker-dealer services through approximately 6,000 associated persons who are registered as representatives with FINRA; about half of them are also registered as investment adviser representatives and provide retail investment advisory services through AXA Advisors' investment advisory operations. These registered persons – we call them financial professionals – provide services directly to customers, many of whom would likely be considered "retail customers" of the type targeted for consideration in the Study.

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AXA Advisors' retail broker-dealer services include the offering of selected mutual funds, variable insurance products and alternative investments for which AXA Advisors has selling agreements, as well as stock, bond and options trading services. AXA Advisors' retail investment advisory services include various personal wealth portfolios and managed accounts, as well as financial planning services. AXA Advisors' financial professionals are also insurance agents appointed by AXA Equitable. AXA Equitable issues a mix of insurance products, including variable annuities and variable life insurance products which are offered by AXA Advisors' financial professionals through AXA Advisors and AXA Network, LLC, an affiliated licensed insurance agency pursuant to a networking agreement. As you know, variable insurance products are treated as securities under the federal securities laws, and, as securities offered by AXA Advisors, are subject not only to the federal securities laws, but also to FINRA rules. This is in addition to state insurance laws, which apply to all insurance products, regardless of whether they are considered to be securities. AXA Advisors' financial professionals also offer insurance products issued by unaffiliated insurance companies through AXA Network.

Study Focus on Standard of Care. The Study focuses on whether to develop a uniform standard of care for broker-dealers, investment advisers and their associated persons when providing personalized investment advice or recommendations about securities to retail customers. In assessing the scope of any uniform standard of care, we urge the SEC to carefully weigh the advantages of legitimate business models that provide an ever-expanding and diverse retail customer base with variety and diversity of products and services, avoid elevating price above all other considerations, and consider the scope of existing duties applicable to our financial professionals. The following paragraphs elaborate on our concerns.

Any Standard of Care Must Not Create an Anti-Competitive Atmosphere Among Adherents of Different Business Models.

A. The Proprietary Exemption

At AXA Advisors and AXA Equitable, we are concerned that the Study could result in rulemaking proposals reflecting a bias against different business models. The Dodd-Frank Act authorizes the SEC to adopt a rule requiring notice to a customer if a broker-dealer offers only "proprietary or other limited range of products," and also states that a provider's sales of such products shall not, "in and of itself" be considered to be a violation of any standard of care adopted by the Commission. We are very concerned that rulemaking in this area as a result of the Study would result in disclosures or sales practice rules that seriously disadvantage certain distribution arrangements for variable life insurance and annuity product sales compared to others, and could result in the unintended consequence of limiting customer choice.

B. The Current Environment

Currently, there is healthy competition among insurance companies in their utilization of different distribution arrangements. Some insurance companies utilize a "captive" system, in which the agents they appoint sell that company's insurance products exclusively, essentially a

"proprietary" arrangement. Other insurance companies, such as AXA Equitable, have adopted a hybrid "open architecture" system where, while they seek to maintain a force of agents primarily offering their insurance products, they allow their agents to offer a selection of products offered by other insurance companies. This model aims at providing a fuller spectrum of insurance products to meet the different needs and objectives of an ever-expanding, diverse and geographically dispersed customer base. There are also insurance companies who rely on independent insurance agents who do not have a proprietary relationship with any one insurance company and offer insurance products manufactured by a range of different insurance companies with which they have appointment agreements.

C. The Need for Clarity in Defining and Implementing the Proprietary Exemption

While we believe that these various distribution arrangements all present valid, worthwhile approaches, they do so on the basis of fulfilling the particular needs of the customers served by the firm and each provides retail customers with choices and options that would not be available if one approach was favored over the others. Insurance companies that are closely tied to their insurance agents may collaborate closely with them on insurance products tailored to the customer base targeted by the agency force. The "open architecture" followed by AXA Equitable encourages the establishment of a long-term relationship with customers that fosters timely and frank conversations about investment objectives, taps the financial professionals' substantial knowledge of the features and benefits of the firm's proprietary products as well as the features and benefits of available products offered by other insurance companies to suit the long-term investment needs of the customer and manages the customer's risk tolerance. Insurance companies that look to independent insurance agents to sell their products may choose to compete primarily on price, agent sales compensation or unique product features, which may be appropriate for certain customers, but as we note below, price alone should not be the predominate factor in addressing the needs of customers. These different approaches ensure a wide array of choices and options for insurance purchasers. This is in the best interests of retail customers.

A lack of clarity in rulemaking may provide an unintended competitive advantage to one business model or another. Even an appearance of a competitive advantage for one business model would be a disservice to customers and to the industry, if proponents of that model are able to utilize that appearance to their benefit in recruiting away representatives or customers of other firms or if firms become convinced they could decrease compliance costs or better retain representatives or customers by shifting to a favored regulatory model.

Another legal consideration that we urge the Commission to consider as it reviews the various competitive models is the treatment of insurance agents under federal income tax laws. For example, as a matter of federal income tax law, many broker-dealer financial professionals affiliated with insurance companies in proprietary and open architecture arrangements are considered to be "full-time life insurance salesmen." So long as these financial professionals meet the conditions specified for full-time life insurance salesmen status under IRS regulations, AXA Equitable, for example, can provide various employee-type benefits to them, such as health insurance coverage and other important benefits. This arrangement encourages long-term

relationships between the financial professionals and insurance companies, and, when coupled with the diversity of available proprietary and non-proprietary products, aligns with the long-term relationships financial professionals and insurance companies seek to have with customers.

The current marketplace would be fundamentally disrupted if the SEC pursues rulemaking that ultimately requires broker-dealers to offer a particular range of products or that suggests (intentionally or unintentionally) that a business model offering "proprietary or other limited range of products" is somehow more or less favorable for retail customers. This would potentially result in less rather than more customer choice and the ability of one set of firms, in essence, to be given a legislative pass depending on their particular product offering. We urge the SEC to be careful to avoid any rulemaking based on the notion that a broker-dealer and its associated persons can best fulfill a standard of care by offering a particular range of products. Likewise, we urge you to use care regarding what additional requirements may be imposed on proponents of a particular business model in furtherance of the "in and of itself" clause.

Any Standard of Care Must Not Be Based on Price Alone.

A related concern with any standard of care rulemaking is the lack of any parameters in the Dodd-Frank Act for determining what factors are relevant in evaluating whether the advice or recommendation given to a retail customer is in compliance with the standard of care. Under current rules for insurance sales and securities transactions, we have a fair amount of guidance for determining what is suitable, and consider a number of factors such as the customer's needs, the product's features, and the bona fides of the product and its sponsor.

We are particularly concerned that, if additional guidance is not provided regarding the full range of considerations that must go into a best interests analysis, as we note above in our discussion of the competitive models, the predominate focus could rest solely on price, and regulators and litigants will ignore far more critical considerations. Especially with insurance products, factors such as the features and benefits of an issuer's products, insurance underwriting standards, investment performance and diversification and customer specific needs and objectives are key considerations that our financial professionals currently take into account in developing their recommendations. Insurance products are long-term purchases. The best interests of retail customers will be ignored, rather than served, if financial professionals are pushed into placing customers in the lowest cost products to avoid potential fiduciary liability.

We urge the SEC to ensure that any pronouncement of a standard of care recognizes the many qualitative – and not just quantitative – factors that a responsible financial professional ordinarily considers when developing a recommendation for a retail customer.

Any Standard of Care Must Recognize Existing Legal and Regulatory Requirements Imposed Upon the Insurance Industry and its Agents.

Our final concern with the Dodd-Frank Act's standard of care rulemaking authority is the potential creation of new standards that fail to take appropriate account of the existing federal, state and NAIC regulations relating to suitability standards, fair dealing and disclosure rules for

annuity products. These existing rules provide an appropriate framework for any standard of care rulemaking addressing these product types. We urge the SEC to give full consideration to the well-developed duties and obligations already imposed on broker-dealers and insurance agents as a matter of existing law, and not impose requirements that may conflict with existing duties and serve only to confuse, rather than enlighten, retail customers. We are aware of the suggestion that disclosure can "cure" or "resolve" any conflict that may be created by a standard imposing a fiduciary duty on an insurance agent to a retail customer, but the SEC must be mindful of the consequence of this approach – the need to provide customers with expansive disclosure documents to explain potential inconsistencies resulting from new rulemaking will only serve to further confuse retail customers. For example, it is especially important that any disclosure requirements be consistent with the requirements of other disclosure rules applicable to appointed insurance agents, such as New York State Regulation 194,[1] which mandates certain disclosures regarding insurance sales compensation. To provide customers with potentially inconsistent disclosures will not aid in clarity. It is our hope that the Commission will work with other regulators, including state insurance regulators, in order to achieve workable, consistent frameworks for providing disclosure.

State insurance regulators have also established other requirements, coupled with disclosure, which the Commission should take into account in coordinating any standard of care rulemaking. In recent years, state insurance regulators have been especially active in the area of annuity sales, adopting and enhancing rules governing the sale of annuity contracts. These rules reflect a holistic approach to ensuring that the insurance needs and financial objectives of customers purchasing annuities – whether or not they are variable annuities – are appropriately addressed. For example, the NAIC Suitability in Annuity Transactions Model Regulation (the "NAIC Model Annuity Suitability Rule"),[2] which provides a model followed by several states and was explicitly endorsed by Congress in the Dodd-Frank Act, establishes, in addition to disclosure requirements, suitability standards for both insurance agents and insurance companies, and training standards for insurance agents selling annuities.

Likewise, we urge the Commission to strive to ensure consistency with FINRA requirements. The NAIC Model Annuity Suitability Rule is similar in many respects (and indeed is intended to be complementary) to the FINRA suitability rule for variable annuity sales (FINRA Rule 2330), which took final effect in February 2010 and imposes disclosure requirements, suitability standards, principal review procedures, supervision requirements and registered person training requirements on broker-dealers and their registered persons. Much like the NAIC Model Annuity Suitability Rule, FINRA Rule 2330 is also grounded in principles of fair dealing with customers.

We have pointed out a few of the more notable examples of areas where we urge the SEC to study the regulatory landscape carefully in structuring any rulemaking, in order to avoid inconsistent or conflicting regulatory requirements. While the industry will, of course, strive to

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[1] Producer Compensation Transparency, 11 NYCRR 30 (January 25, 2010)

[2] Nat'l Ass'n of Ins. Comm'rs, Suitability in Annuity Transactions Model Regulation, NAIC 275-1 (March 2010).

comply with all applicable laws, the final outcome of such inconsistent or conflicting rules would be potential confusion and increased costs to customers.

Thank you very much for the opportunity to comment.

Sincerely,

Andrew McMahon
Chairman of the Board, AXA Advisors, LLC
Senior Executive Vice President, AXA Equitable Life Insurance Company