Independent Insurance Agents & Brokers of America, Inc.

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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 Number 4-606.

Dear Ms. Murphy:

In response to the Securities and Exchange Commission's request for comments concerning the legal obligations of brokers, dealers, and investment advisers, the Independent Insurance Agents & Brokers of America (IIABA) is pleased to submit this letter. IIABA is the largest association of insurance agents and brokers in the United States, and a significant number of our members offer investment and securities-related insurance products and would be adversely affected by the establishment of a universal fiduciary standard of care. We appreciate having the opportunity to comment on these important issues and thank you in advance for your consideration of our concerns.

IIABA strongly opposes the establishment of a fiduciary standard of care for registered representatives who offer financial products. Such a significant revision to the current regulatory structure is unwarranted, and the increased burdens on financial providers and adverse consequences for consumers certainly outweigh any measurable accompanying benefits. This seemingly innocuous and unremarkable change will have seismic repercussions that have not been fully examined by policymakers or regulators, and the indiscriminate and wholesale application of this standard has not been adequately defended and justified by its proponents.

Imposing such a standard would force broker-dealers and their registered representatives to recommend the absolute "best" option to their customers, but identifying the ideal product among many different alternatives is not as simplistic, straightforward, and clear-cut as some mistakenly believe. Any such determination is inherently subjective (especially given the wide range of variables that can be considered in making such a determination), and one person's conclusion concerning the best available option for a particular consumer will naturally differ from others. In addition, the preferred option at the time a recommendation is offered may not seem so appealing or attractive in hindsight if it does not meet anticipated expectations or is outperformed over time by a competing product. Creating a universal fiduciary standard – which is vague and ambiguous by its very nature – merely adds unnecessary uncertainty to securities transactions and increases the likelihood of second-guessing and litigation when a particular transaction is retrospectively scrutinized years after the initial recommendation is made.

Altering the existing standard will also reduce the universe of qualified professionals willing to offer knowledgeable assistance and investment services (often at no direct expense to the buyer). This government-imposed weakening of industry competition will ultimately harm consumers. Many broker-dealers and registered representatives, including the main street businesses represented by IIABA, will simply cease their securities-related operations given the uncertainty associated with such an amorphous and subjective standard, higher compliance and insurance costs, and well-founded fears about increased liability exposure. A sizable number of IIABA's members are able to review and service the investment, insurance, and other financial needs of their customers on a holistic basis today, but a change in the standard of care will force many to narrow their emphasis and instead operate only in limited niches or sector-specific silos. With fewer advisers serving the financial needs of the general public, far fewer consumers will have the opportunity to access the variety of financial products and quality of personalized financial assistance available to other more affluent Americans. Many middle class Americans – especially those unwilling or unable to pay upfront fees for guidance – will effectively lose access to competent financial guidance and certain investment products and services.

Broker-dealers and registered representatives already adhere to a rigorous and strictly-enforced standard of care and may only offer or recommend products that are suitable for a customer based on that person's needs, objectives, and financial situation. Before a recommendation can be made, a financial provider must acquire and analyze important information about the client and determine which investments are suitable in light of those facts. Recommendations concerning certain products trigger even greater regulatory requirements under current law, and transactions involving the purchase or exchange of deferred variable annuities, for example, highlight how precise and prescriptive these existing mandates can be. A strong regulatory regime with meaningful market conduct, supervisory, record-keeping, and other mandates is already in place, and appropriate and potent remedies exist for those who are the victims of improper or unlawful acts. Anomalies and examples of improper marketplace behavior will occur in rare instances, but strong regulation and enforcement of existing requirements is the proper and more effective response. Altering the standard of care is not a panacea that will eliminate bad actors and bad behavior, and it is important to remember that some of the most noteworthy and notorious financial crimes in U.S. history have been committed by registered investment advisers (including Bernard Madoff) who were required to adhere to the same standard of care that some wish to extend across the board.

Those who propose the establishment of a one-size-fits-all fiduciary standard presume that the interests of financial providers and customers regularly conflict and that providers act in their own self-interest to the detriment of customers as a matter of practice, but there is no evidence to support such a conclusion. The truth is that consumers have unprecedented access to a wide array of financial products and are extremely well-served in the current environment. Brokers and registered representatives proudly serve the needs of their customers, and the fierce competition on the ground floor of the marketplace keeps providers responsive and accountable. In nearly every aspect of the securities marketplace and certainly in main street America, the existence of effective competition deters improper conduct and self-interested behavior.

IIABA urges the Commission to avoid a rush to judgment and to carefully study these issues before acting. If genuine marketplace problems or serious gaps in the regulatory framework are clearly identified, then we suggest you consider all possible alternatives (including enhanced disclosure requirements). The high quality of recommendations made by broker-dealers and their registered representatives will not improve as a result of a change in the standard of care, and taking such a drastic step will reduce competition and have severe consequences for countless main street businesses and the consumers who rely on these qualified and accountable providers for their financial needs. Many Americans will lose the ability to turn to a trusted voice in their local communities for assistance with their investment and planning needs if the anticipated changes to the standard of care take effect.

Thank you very much for your consideration of these comments.

Very truly yours,

Bob Rusbuldt

Bob Rusbuldt
President and Chief Executive Officer