THE COMMITTEE FOR THE FIDUCIARY STANDARD

PO BOX 3325
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November 8, 2010

Elizabeth Murphy
Secretary
Securities and Exchange Commission
100 F Street, N. E.
Washington D.C. 20549

RE: File Number 4-606
Study Regarding Brokers, Dealer and Investment Advisers

Dear Secretary Murphy:

This letter is submitted by the Committee for the Fiduciary Standard * to comment on the SIFMA presentation submitted on October 27, 2010 on the impact on investors of harmonizing the fiduciary and suitability standards. The conclusions drawn from this presentation, derived from a review of investor accounts from some 17 SIFMA members, are the same conclusions that SIFMA has expressed for many months, and expressed in their letter to the Commission on August 30, 2010. In particular, in its August 30 letter and its October 27 presentation, SIFMA claims that applying the fiduciary standard that requires brokers to put the best interests of clients first will harm investors, by limiting investor choices in products, services, and advisors, as well as increase costs.

We will not attempt to identify every question or concern we see from the October 27 presentation. We will only highlight four points regarding our overriding thesis; i. e: The validity and relevance of any conclusions drawn from this presentation should be considered in light of the assumptions and data underlying the study and the rigor of its statistical analysis.

SIFMA's presentation is premised on the false assumption that brokers will be prohibited from accepting commissions.

The presentation presumes that investors will not be free to keep their brokerage relationship and not have full access to a wide range of products because brokers will be forced to stop receiving commissions under a fiduciary standard. However, there is no clear basis for this assumption given that the Dodd-Frank Act explicitly states that receipt of commissions "shall not, in and of itself be considered a violation of such standard applied to a broker or a dealer."[1]

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*The Committee for the Fiduciary Standard formed in 2009 to advocate for the fiduciary standard under the Advisers Act of 1940 and as represented in the Committee's five core principles. There are over 800 investment professionals who are members of the Committee. For more information go to www.thefiduciarystandard.org.

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[1] See Section 913(g) of the Dodd-Frank Act.

SIFMA's presentation is premised on a selected sample of investor accounts whose composition, from the data included in the presentation, is largely unknown.

The presentation states the sample of investor accounts was drawn from 17 SIFMA members and that these 17 institutions "serve" 38mm households and together hold $6.8 trillion in total assets. The presentation claims "the survey" is "highly representative" of the US investor population. Yet, there is no description of the actual sample of investor brokerage or advisory accounts and there is no data and analysis that suggests this is a statistically representative sample.

SIFMA's selected sample of investor accounts does not appear to be a statistically representative sample of all investors; it is heavily over-weighted in brokerage accounts and with brokerage services paid by commissions, as compared to the statistically representative investor sample in the 2008 Rand Report.

The SIFMA selected sample is described as heavily-weighted toward commission based brokerage accounts over fee-based accounts, by 95% to 5%. This over-weighting of brokerage accounts is stark (as compared to the overall investor population) and plainly evident as compared to the statistically representative sample of households in the Rand Report (2). The Rand sample split fairly evenly between advisory and brokerage accounts – 212 to 215. Further, many investors using brokerage accounts, some 38%, reported that *they did not pay for these brokerage services with commissions*; they paid with a flat fee, or a fee based on assets under management. It is evident from this comparison that the SIFMA selected sample is materially different from Rand representative sample, and, as such, the entire investor population.

The summary cost data presented does not include sufficient data to allow for an analysis to determine whether these cost estimates are fair and accurate; the data does not appear to even consider the potential cost savings attributed to fiduciary duties.

The presentation on costs is conducted in a summary form. The costs associated with this selected sample of investor accounts today and the asserted incremental increased costs associated with transitioning to a fee-based account, are based on SIFMA member data, and presented with no explanation as to how they were derived, calculated and applied. There is no basis to assess whether these costs are fair and accurate.

As one example, it appears a direct comparison is made between brokerage and advisory services – a comparison made without any adjustment for the fundamental different attributes between a transaction discussed and executed over, for example, a couple hours or a couple days, versus advice rendered over 365 days. If so, this is so plainly inappropriate, and like comparing an apple with an orange.

This cost comparison also fails to consider other factors that will impact this analysis and any calculation, such as the real potential *cost savings* to investors whose advisors are fiduciaries, and fulfill duties not required of brokers. These duties include, for example, recommending only products in the client's best interest and controlling investment expenses.

In sum, the additional costs, if any, that may be fairly and specifically associated with the broader application of the fiduciary standard to brokers (versus myriad new regulations under the Dodd-Frank Act) are not clearly identified and calculated in this presentation.

Conclusion

If the purpose of this presentation is to objectively and rigorously analyze relevant data to determine how applying the fiduciary standard to brokerage clients will effect investors, this presentation has fallen short of its goal.

The presentation's underlying premise is false. The parameters of the selected sample of investor accounts unknown, except that it sharply over weights brokerage clients who compensate their broker through commissions. The basis for its cost assumptions and projections are unknown.

While SIFMA's concern regarding accessibility and costs may have merit, the data and analysis presented here do not illuminate a basis for that that merit. As presented, it is very difficult to see how the findings here can contribute to the SEC's study.

Respectfully,

Knut A. Rostad

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2. Rand Corporation Technical Report: Investor and Industry Perspectives on Investment Advisers and Broker-Dealers (2008), available at: http://www.rand.org/pubs/technical_reports/2008/RAND_TR556.pdf