

MEMORANDUM

TO: Title IX Provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act

FROM: James R. Burns, Deputy Chief of Staff
Office of the Chairman

DATE: August 26, 2011

SUBJECT: Telephone Conference with Susan Seltzer, The Derivative Project

On August 26, 2011, James Burns, Jennifer McHugh and Leidy Valencia held a phone conference with Susan Seltzer of The Derivative Project. During the call, Ms. Seltzer presented views on the Investor Advocate described under section 915 of the Dodd-Frank Act. In reference to the above file, attached is the submission Ms. Seltzer provided prior to the call.

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Proposed Agenda

1. What qualifications does Congress envision a Dodd-Frank Office of SEC Advocate should be staffed with?
 - To predict systemic risk issues, such as unchecked counterparty credit risk, that could harm qualified retirement accounts, would Congress want an individual experienced in international capital markets, money movement, OTC and exchange traded derivatives?
 - Given rapidly changing markets, would Congress want an individual that can work with Congress to identify the professional qualifications and training required in today's capital markets to both protect and grow retiree's savings using state of the art trading and hedging tools, particularly given FINRA's current warning to brokers on how to manage risks of structured notes? (Why this is a clear red flag that requires SEC take action, as soon as possible.)
 - Should Congress advise the SEC to consider individuals who have worked in both a commercial banking and securities (Wall Street) culture that can share with Congress and the SEC why certain cultures lead to fraud and abuse and steps that may prevent it, by regulators?
 - To understand limitations and abuses in online trading markets for retail retirement accounts, that require immediate attention, would Congress want an active retail retirement account trader, as a SEC Advocate?
2. Based on the latest U.S. Chamber of Commerce report (https://www.uschamber.com/sites/default/files/reports/1107_UnfinishedAgenda_WEB.pdf) on major flaws at FINRA and the lack of FINRA's executives experience in the capital markets, would the Senate Banking Committee consider preventing the SEC from appointing FINRA as the overseer of SEC Registered Investment Advisors? If not, would the Senate Banking Committee be willing to hold a hearing on abuses by FINRA's mandatory arbitration system on retail retirement plans?

3. Given the U.S. Chamber reports that FINRA executives have limited to no financial experience, would it be prudent for the Senate Banking Committee, as overseer of the SEC and FINRA, to review what professional qualifications and experience are required for SEC registered investment advisors to qualified retirement plans, since without direct experience in markets, these executives have allowed unprofessional standards to continue for many years, due to their own inexperience?
4. A recent examples (August 2011) of why brokers are not and cannot be fiduciaries in Wrap Accounts and why an SEC Investor Advocate is needed immediately due to material abuses in this marketplace.
5. Publication of The Derivative Project December 3, 2010 Meeting Agenda and Materials given to SEC Commissioners (Aguilar, Paredes , Walter and Chairwoman Shapiro's Deputy at SEC Investor Advocate Public Site.