



The Commonwealth of Massachusetts

Secretary of the Commonwealth

State House, Boston, Massachusetts 02133

William Francis Galvin
Secretary of the Commonwealth

October 6, 2011

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

Re: Retrospective Review of Existing Regulations, Request for Information
Release Nos. 33-9257; 34-65262; 39-2479; IA-3271; IC-29781
File No. S7-36-11

Dear Ms. Murphy:

The Massachusetts Securities Division (the "Division") welcomes this opportunity to respond to the Securities and Exchange Commission's request for information on its proposed retrospective review of existing regulations.

The Massachusetts Securities Division is a department within the Office of the Secretary of the Commonwealth of Massachusetts. The Securities Division is charged with the responsibility to implement and enforce the Massachusetts securities laws. As such, the Secretary of the Commonwealth is the chief securities regulator for Massachusetts.

As regulators, we appreciate the challenges that the Commission faces as it considers how best to carry out a review of its existing regulations. Due to advances in technology and communication as well as changes in the markets, it is necessary for all securities regulators to examine their rules to make sure that they are efficient and effective in the current environment.

Protection of Investors and Markets

The Securities Exchange Act of 1934, which established the Securities and Exchange Commission, was adopted in the response to the "national emergency" of the 1929 stock market crash and the ensuing Great Depression. All of the federal securities laws reflect a philosophy of protecting investors and markets through full and fair disclosure. The current market environment is characterized by increasing complexity and speed. We

urge the Commission in the review of its regulations to take strong steps to carry out its mission of assuring that investors will get the disclosure that they need on a timely basis and in a usable form, and assuring that markets will be fair and transparent.

We urge the Commission to look for ways to make disclosure documents more useful and meaningful to retail investors, particularly in disclosing the risks of securities. Too often, prospectuses and other disclosure materials are drafted as “liability documents” to protect issuers and promoters. In too many cases, these disclosure documents are not readable by most retail investors. In updating its rules, the Commission should give priority to designing disclosure materials that will serve the needs of real-world investors.

Coordination with the States, Other Regulators, and SEC Enforcement

The states have been at the front lines of detecting and taking action against fraudulent offerings, misleading sales practices, and other abuses in the securities markets. The Massachusetts Securities Division stands ready to participate in the Commission’s review of its rules. The other states, acting through the North American Securities Administrators Association, also have a history of commenting on, and coordinating with, new SEC rules. We expect that NASAA will build on that history. Also, because SEC rules establish the regulatory structure in many areas of U.S securities regulation, and because many state statutes call for the states to coordinate with federal authorities, we have a clear interest in the creation of effective rules that will establish a workable framework for both state and federal regulators.

We also urge the Commission to consult actively with FINRA, which issues its own rules and regulatory notices to address emerging issues in securities regulation, particularly with respect to sales practices. And we urge the drafters of any revised SEC rules to consult actively with SEC’s Enforcement Section. The enforcement sections of the various securities regulators have first-hand exposure to how many types of investments have actually failed, and they often have met and interviewed investors who have suffered losses from their investments. Any effective rulemaking must take into account the knowledge gained by the enforcers of the securities laws.

Alternative Investments

We urge the Commission to give particular attention to the growth of so-called “alternative investments” and the selling practices for such investments. The Massachusetts Securities Division has seen surprisingly complex and risky financial instruments in the portfolios of retail investors and savers.

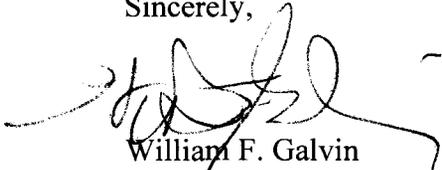
Typically, such investments are sold to investors, rather than being purchased on the customer’s initiative. We have learned through investigations and enforcement actions that often neither the customers holding these instruments nor the brokers who sold them understood how those instruments worked or the risks that they involved. The trend of less sophisticated investors holding alternative investments appears to be accelerating,

but disclosure practices, sales practices, and regulatory rules have often lagged behind this trend.

Finally, we note that any new regulations may be subject to criticism and challenge based on assertions that the Commission cannot demonstrate that the benefits created by the regulations will justify their impact and cost. Certainly, it is important to regulate efficiently and to avoid unnecessary impacts and costs; however, the benefits provided by many regulations, particularly anti-fraud regulations, are not readily estimable. While it may be clear that a given regulation will prevent fraud, it often is not possible to know in advance how many investors will be protected or how much investor money will be saved by a new rule. Fair and informed markets and of honest sales practices provide immediate benefits to market participants, and they provide a spillover benefit of generally enhancing confidence in the markets. Promoting these benefits is a fundamental principle of the securities laws.

We appreciate the opportunity to comment on these important issues. Please contact me or Bryan Lantagne, Director of the Massachusetts Securities Division, at (617) 727-3548, if you have questions about these comments or I can assist in any way.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. Galvin', with a long horizontal flourish extending to the left.

William F. Galvin
Secretary of the Commonwealth
Commonwealth of Massachusetts