

Statement of Dale E. Brown, CAE, President & CEO, Financial Services Institute  
before the  
SEC Investor Advisory Committee  
June 14, 2018  
Atlanta, GA

Discussion Regarding the Commission's Proposed Form CRS Relationship Summary, Including  
Effective Disclosure and Design

## **Introduction**

Good morning to all the Commissioners and members of the committee. I am Dale Brown, President and CEO of the Financial Services Institute (FSI) based in Washington, D.C. FSI members are independent broker-dealer and registered investor advisory firms and their associated dually registered financial advisors. We are the only organization advocating solely on behalf of these independent firms and financial advisors. Since 2004, FSI has advocated for a regulatory environment that enhances investor protection and encourages efficient and effective regulation. We do so through constructive engagement with policy makers and elected officials in Washington, D.C. and the states.

FSI members provide affordable, objective advice to hard-working Main Street Americans. Independent financial advisors help their clients achieve their important financial goals, such as planning for a dignified retirement, saving for their children's education, supporting loved ones in old age, and dealing with healthcare issues.

FSI has over 100 independent firms who license upward of 160,000 affiliated financial advisors, over 34,000 of whom are also FSI members themselves. FSI's voice is unique in that we are able to bring the perspectives of local independent financial advisors and independent firms to important regulatory issues such as the SEC Regulation Best Interest proposal.

## **Reg BI should Incorporate Past Lessons Learned Regarding Disclosures**

I am grateful to be here today to talk about the Customer Relationship Summary (CRS), which directly impacts financial advisors and their clients. First, I will talk about the CRS specifically, and then I would like to end by briefly discussing the best interest proposal generally and provide some background on how FSI has historically approached this issue.

More disclosure does not result in better disclosure. For example, the 1999 Gramm-Leach-Bliley Act required banks and other financial institutions to make very detailed annual privacy policy disclosures to consumers. The resulting notices were long, complex, and written in legalistic jargon that was difficult for consumers to understand. In 2006, Congress directed the financial regulatory agencies to jointly develop a streamlined model financial privacy form. Consumer testing showed that customers were more likely to read notices that were simple, provided key context up front, and had pleasing design elements, such as large amounts of white space. These findings were

incorporated into the agencies' model form. We believe the CRS should incorporate all these lessons as well as other information and insight gleaned from consumer testing on this issue in the years since the model form was developed.

Indeed, the SEC has significant expertise related to investor disclosure and is well positioned to formulate disclosure requirements that maximize their effectiveness. For example, the Office of the Investor Advocate is engaged in an evidence-based study of the impacts of proposed policy changes, including disclosure-oriented policies. Additionally, the SEC is conducting roundtables to hear directly from investors what sorts of disclosures and formats are important to them. This investor focus is essential to formulate reasonable, full, fair disclosure that is effective and engaging.

### **FSI Supports a Two-Tier Disclosure Regime**

FSI has long advocated for a two-tier client disclosure regime that starts with a concise point-of-sale document at the time of formal engagement between the advisor and the investor. This initial disclosure would then be supplemented with more detailed disclosures posted to the Financial Institution's website or otherwise made available to the investor in a format or formats they prefer.

#### 1<sup>st</sup> Tier

We suggested in our initial comments to Chair Clayton's request for information that the first-tier disclosure will serve to inform investors of the information that is most critical to their decision-making at the point in time when that information is most useful, can be delivered most efficiently, and provides the investor the opportunity to ask additional questions. We suggested that the first-tier disclosure might contain:

- A statement of the best interest standard of care owed by the advisor to the client;
- The nature and scope of the business relationship between the parties, the services to be provided, and the duration of the engagement;
- A general description of the nature and scope of compensation to be received by the Financial Institution and financial advisor; and
- A general description of any material conflicts of interest that may exist between the Financial Institution, financial advisor and investor.

We suggested that, similar to the Model Privacy Form developed under Gramm-Leach-Bliley, the SEC could develop a model short-form disclosure to satisfy the first-tier disclosure requirement and provide safe harbor protections for those that use it. The CSR can be this form.

#### 2<sup>nd</sup> Tier

The second-tier disclosure would then provide investors with access to detailed compensation information and material conflicts information via the Financial Institution's website in both a printable and searchable format. A hard copy would be provided to investors who ask for it in

that format. The second-tier website disclosure would provide investors with detailed information concerning available investments, considerations they should make when making investment decisions, and information explaining how a financial advisor and a Financial Institution receive compensation for each type of product.

### **Disclosure Alone is Not Enough**

We believe the CRS, which the proposal says should be no more than four pages, matches many of the aspects of a two-tier disclosure regime which we have supported for the past several years. However, I urge the Commission and this committee not to underestimate the value investors place on their relationship with their financial advisor. The greatest benefit of the CRS will come in the conversations it facilitates between the client and their financial advisors.

### **The Relationship Between the Investor and Advisor is Key**

Though investors surely take into account the cost of products and the fees they pay, and they certainly expect their financial advisor to make recommendations in their interest, they also highly value the relationship they have with the advisor. Most of FSI's financial advisor members live and work in the same communities as their clients. Their children go to the same schools, they attend the same places of worship, and they are collectively invested in the well-being of their community. The financial advisor's relationships with these clients rests on their good reputation for doing honest, fair business with other members of the community. This type of relationship is impossible to summarize the way you can summarize legal duties and product fees.

### **The Financial Advisor Perspective is Essential**

Thus, as we work together to determine how best to organize the CSR and determine what information it should include, I urge you to also invest time and effort into talking to financial advisors about why their clients choose to work with them and what they hear day in and day out from their clients. And most importantly, what questions their clients come to them with. FSI is ready to facilitate your interactions with financial advisors.

### **Regulation BI Must Preserve Access to Advice and Choice of Products and Services**

Finally, I would like to comment briefly on the best interest standard in general. Since 2009, FSI has publicly supported a carefully-crafted, uniform best interest standard of care applicable to all professionals providing personalized investment advice to retail clients. In our comments to Chair Clayton in response to his request for information, which was made in anticipation of the SEC's work to formulate the best interest standard proposal, FSI suggested several key questions for the SEC to address, including defining a best interest standard of care; determining how Financial Institutions would demonstrate compliance; the means to address investor concerns or complaints; and ensuring investors retain access to investment products, services and advice. It is this last point that is so essential to FSI members and their clients – they must retain their ability to choose both the type of relationship with their advisor and the products and investment vehicles they wish to utilize to meet their financial goals.

In remarks before the Senate Banking and the House Financial Services Committees, Chair Clayton has emphasized the importance of preserving investor access to advice and product choice. Research shows that investors who work with financial advisors save more, are better prepared for their retirement, and have greater confidence in their retirement planning. Much of the benefit of retirement planning services results from an advisor's ability to encourage product diversification, and behavioral coaching: encouraging savings; establishing and maintaining long term strategies; and eliminating the emotional decision-making that often arises during periods of market volatility. These benefits are especially critical for lower and middle-class investors and it is imperative that they have access to financial education and guidance in whatever form they prefer and can afford.

Thank you for the opportunity to share these thoughts. I look forward to the dialogue.