



## Consumer Federation of America

May 4, 2010

### **Don't Buy Into Industry Delaying Tactics: Support the Akaka-Menendez Amendment to Provide Fiduciary Protections to Investors Now**

Dear Senator:

Investor advocates and state regulators have identified passage of the Akaka-Menendez amendment as the most important step the Senate can take to strengthen protections for average Main Street investors. Life insurance agents, however, appear to think there is still some question about whether individuals who call themselves financial advisers and market their services to the public based on the advice offered should have to act in the best interests of their clients. That is the reason they give for opposing the Akaka-Menendez amendment, which would require brokers to act in their customers' best interests when they give investment advice – that it needs more study.

Last week's hearings in the Permanent Subcommittee on Investigations shone a bright light on the kind of egregious practices that are permitted when brokers are free from any responsibility to act in the best interests of their customers. Average investors encounter the same kind of abuses every day in their dealings with brokers, albeit on a smaller scale unlikely to make headlines. Just as Goldman is accused of pursuing its own financial interests at the expense of its customers, retail investors routinely receive recommendations from their "financial advisers" that are chosen because they offer more generous compensation to the broker or make revenue sharing payments to the brokerage firm. Imposing a fiduciary duty on brokers (and the insurance agents who are regulated as brokers because they recommend securities) would simply require them to have a reasonable basis for believing their recommendations are in the best interest of the customer and to disclose any conflicts of interest that could bias their recommendations.

We do not need more study of an issue that is patently obvious to everyone but the industry insiders whose business practices prey on unwary investors – brokers should not be allowed to misrepresent themselves as advisers if they are not willing to meet the fiduciary standard that goes with giving advice. The Akaka-Menendez amendment would address that problem by imposing the same fiduciary duty on brokers who give investment advice that already applies to investment advisers. We urge you to ignore self-interested arguments from industry groups seeking to maintain the status quo and vote yes on the Akaka-Menendez amendment.

Respectfully submitted,

Barbara Roper  
Director of Investor Protection