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Without Fiduciary Protections, It's "Buyer Beware" for Investors

Consumer Advocates, State Regulators and Financial Industry Organizations

Join Senate Fiduciary Champions in Calling on Congress to

Require Financial Professionals to "Act in the Best Interests" of Investors

Washington, D.C., June 15, 2010 – With the financial reform bill entering into final negotiations, a unique group of consumer advocates, regulators and industry organizations join with U.S. Senators Daniel Akaka and Robert Menendez to call on the U.S. Congress to provide a fiduciary standard that provides critical protections to Main Street investors.

“Imposing a fiduciary duty on brokers when they are giving personalized investment advice will ensure that all financial professionals have the same duty to act in the best interests of their clients,” said U.S. Senator Akaka (D-Hawaii) in adding his voice of support for the group and its efforts. “Investors must be able to trust that their broker is acting in their best interest.”

Senator Menendez (D-New Jersey) dubbed the fiduciary standard as the “honest broker provision,” adding that: “Consumers should be given the peace of mind that their brokers are managing their hard-earned money honestly. The saying goes, ‘The customer is always right,’ not ‘The customer is an afterthought,’ and that is why we think keeping this provision in the final bill is so important.”

The conference committee is resolving differences between the House and Senate financial regulatory reform bills. It is scheduled to take up the issue Wednesday (June 16).

In a letter to the conferees, the group stated: “Financial regulatory reform presents an historic opportunity to improve investor protection for Americans and restore confidence in the market. Requiring all financial professionals to act in the best interests of their customers when they provide investment advice is the single most important protection needed by the average Main Street investors.”

The group urged the House and Senate conferees to adopt the House-passed legislation that extends the fiduciary standard of care to all financial professionals who give investment advice.

“The House bill represents a clear and sensible compromise that imposes a fiduciary duty on brokers but does so in a way that accommodates industry concerns,” said Barbara Roper, Director of Investor

Protection for the Consumer Federation of America. “In contrast, the Senate bill requires the SEC to study the issue, then denies it the authority it would need to solve the problem. At best, it would delay reform for years; at worst it would kill it completely. In the meantime, vulnerable investors will continue to be victimized by brokers masquerading as advisers, and billions of dollars that could have gone toward retirement savings, college savings, or the purchase of a new home will go instead to line the pockets of these deceptive brokers.”

In its letter the group noted that without the requirement of a clear and unambiguous fiduciary standard, most Americans, assuming that those they turn to for advice are acting in their best interests, will continue to be victimized by those selling high-margin products designed to benefit their own bottom line rather than truly build wealth for their customers.

Polls show that Americans overwhelmingly believe that the professionals they turn to for advice are required to act in their best interest. Tragically, under current law, broker-dealers are free to call themselves financial advisors and offer extensive advisory services without meeting the same fiduciary standard to act in the best interest of their customers to which all other investment advisers are held.

“Ensuring that brokers who give personalized investment advice about securities are held to the same ‘customer first’ standard as investment advisers would arm regulators on a state and federal level with new tools to better protect investors,” said Denise Voigt Crawford, Texas Securities Commissioner and President of the North American Securities Administrators Association.

The groups called industry arguments that the fiduciary standard was unclear or could not be applied in a manner consistent with current brokerage business practices a smokescreen designed to perpetuate the lack of broker fiduciary responsibility.

"Investment advisers have been subject to a fiduciary duty under the Investment Advisers Act for decades," said David Tittsworth, Executive Director of the Investment Adviser Association. "Under this federal fiduciary standard, investment advisers must act in the best interests of their clients and place their clients' interests above their own. This well-established standard has been consistently interpreted and applied by the SEC and the courts to require advisers to serve their clients with the highest duty of loyalty and care."

“Broker-dealers or their representatives can easily provide investment advice under a variety of different business models – including receipt of commissions or the sale of proprietary products – and still adhere to a fiduciary standard of care. In fact, our financial planners, who have voluntarily agreed to adhere to the fiduciary standard, have found that putting the clients’ interests first and fully disclosing conflicts of interests, is not only good for the clients but good for business,” said Bob Glovsky, spokesperson for the Financial Planning Coalition, which is comprised of Certified Financial Planner Board of Standards, Inc.®, Financial Planning Association® and National Association of Personal Financial Advisors.

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