



Consumer Federation of America

May 6, 2010

Don't Believe the Insurance Industry Lies: The Akaka-Menendez Amendment Protects Investors *and* the Commission-based Business Model

Dear Senator:

The insurance agents who are calling to oppose the Akaka-Menendez-Durbin amendment have probably told you that it would destroy their business by eliminating their ability to charge commissions. And no doubt the agents making the calls sincerely believe what they're saying. After all, that is the scare tactic the National Association of Insurance and Financial Advisors (NAIFA) is using to gin up the troops. In a recent alert addressed to "all agents," NAIFA claimed that the bill "if implemented as some believe would eliminate commission sales as a form of compensation."

However, as anyone who has read the amendment would know, that simply isn't true. Here's what the amendment *actually* says: "The receipt of compensation based on commission or other standard compensation for the sale of securities shall not, in and of itself, be considered a violation of such standard applied to a broker or dealer." In addition, we have decades of experience in which financial planners have earned commissions despite being regulated as fiduciaries under the Investment Advisers Act. There is no reason to believe the SEC would do a sudden about face now, and if they tried, the legislation wouldn't let them.

So, what is the insurance industry's real beef with this amendment? If it passes and insurance agents have to disclose conflicts of interest and recommend securities that benefit their customers instead of their own bottom line, it will make it much harder for them to sell high-cost variable annuities to unsuspecting middle income investors. That's good for investors but bad for those whose business model depends on sales practices that allow them to enrich themselves at customers' expense.

The Akaka-Menendez-Durbin amendment provides the SEC with the regulatory authority that, in testimony last week before the appropriations committee, Chairman Mary Schapiro said the agency needs. In addition, the Akaka-Menendez-Durbin amendment has been endorsed by public interest groups (CFA, AARP, Americans for Financial Reform), state regulators (North American Securities Administrators Association, National Governors Association, and National Association of Secretaries of State), and financial planning and investment adviser groups (the CFP Board, NAPFA, Investment Adviser Association, and Financial Planning Association).

Senators have an opportunity to act in the best interests of their constituents by adopting the Akaka-Menendez-Durbin amendment. We urge you to do so.

Respectfully submitted,

Barbara Roper