



July 26, 2019

Hon. William Galvin  
Secretary of State  
Securities Division  
One Ashburton Place, Room 1701  
Boston, MA 02108

RE: Proposed regulations establishing a fiduciary standard of conduct for Broker-dealers, agents, investment advisors and representatives.

The South Shore Chamber of Commerce is a regional chamber representative approximately 1,200 member organizations and their employees. The Chamber's Board has not yet taken a formal position on the proposed regulations. However, since your office is seeking preliminary comments I want to pass along some of the concerns we received from our outreach to members for comment.

Nobody has an issue with sanctioning or prosecuting someone who is acting improperly and taking advantage of clients. Our members in financial services all agree the industry is well-served by removing those people. Many acknowledged that there are some bad actors and poor advisors who should not be in business.

Questionable behavior though should be attributed to individual behavior rather than the system under which advisors/brokers are compensated. Nobody feels all commissioned based brokers/advisors offer bad advice or that bad actors are limited only to commissioned based brokers/advisors.

Two common themes appear in the responses we received. The first is that the proposed regulations may be overkill in dealing with the small number of individuals who act inappropriately. The second is that uniformity in regulations is more important than uniformity of standards.

On that second point there is some difference of opinion whether investors and businesses will be better served if all advisors/brokers operate under a single standard of conduct. There was unanimity though that there should be a uniform regulation between the states and the federal government. For practical reasons that should be a federal standard rather than different standards between the states and the federal regulatory agencies.

A patchwork of different standards will be particularly difficult for brokers/advisors who operate in multiple states. The potential negative impacts don't fall just to the brokers/advisors but extend to the consumer and investors, particularly the small investor. There were two particular concerns on how different standards might affect consumer choices. The first was in reducing market choice by forcing some out of state advisors/brokers to withdraw from the Massachusetts market. The second was in unintentionally forcing some in-state companies to get out of the business or reduce some services. We received two examples of businesses that withdrew from the small investor market in Massachusetts because of the costs of regulations. We also heard a case of a company getting out of the small investor market because profits were too low.

One respondent did not feel a fiduciary standard would preclude smaller investors from getting advice. But he also pointed out that smaller investors may only find lower performing advisors and wondered if the regulations would matter if the advice is poor even though considered un-conflicted.

There were many concerns raised about the practical ability of the state to enforce the regulation. Particularly concerning is the invitation to second guess whether or not specific advice was in a client's best interest. Circumstances are different with each client and actual results are not always determined by a broker's/advisor's skill or compensation. Stated another way: is the client's best interest being measured by their financial gain or the broker/advisors motives?

Overall we are concerned about how this might be implemented. The proposal is based on a need to act because the federal regulations presumably lack clarity. Absent a uniform standard adopted by all the states the proposed rule risks the same or worse result by creating confusion and conflicting practices for firms and small businesses. The proposed standards are themselves subjective and ripe for second-guessing when a recommendation or sale was in the best interest of the client at the time it was given.

Massachusetts Executive Branch regulations are subject to a small business impact review before being adopted. I would request that the Securities Division conduct a similar assessment before proceeding to final adoption of the proposed fiduciary standard.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Forman". The signature is fluid and cursive, with the first name "Peter" and last name "Forman" clearly distinguishable.

Peter Forman  
President