



January 7th, 2020

Hon. William Francis Galvin
Office of the Secretary of the Commonwealth
Attn: Proposed Regulations – Fiduciary Conduct Standard
Massachusetts Securities Division
One Ashburton Place, Room 1701
Boston, MA 02108

Dear Secretary Galvin,

On behalf of the Greater Boston Chamber of Commerce, I am writing to express our concerns regarding the proposed *Fiduciary Conduct Standard for Broker-Dealers, Agents, Investment Advisers, and Investment Adviser Representatives*. For the reasons detailed in this letter, we urge the Division to delay action on implementing this new state regulation until after federal guidance under Regulation Best Interest (Reg BI) is implemented and evaluated, and only if Reg BI fails to adequately protect Massachusetts investors.

As stated in our July 23, 2019 comment letter, this proposed regulation will cause significant, unintended negative consequences for the Massachusetts consumers it is trying to protect: individuals with modest investments who use broker-dealers. Rather than protecting everyday investors in Massachusetts, the proposed fiduciary standard regulation threatens to limit the availability of brokerage services and raise barriers for accessing financial advice.

A considerable risk of implementing this rule is that firms will decide compliance is too costly, too difficult, or exposes them to too much risk. As a result, they may decide to discontinue brokerage services in Massachusetts. Brokerage accounts are important as a low-cost, low-barrier entry into investing and wealth-building. The advice is often free and can be used by individuals who are investing in college savings plans, retirement accounts, or saving for other important steps in their financial future such as purchasing a home. Implementing a regulation that limits the availability of brokerage services will leave Massachusetts residents with fewer choices and guidance for making their investments.

For those firms that continue to offer brokerage services, the rule proposed in Massachusetts would require that broker-dealers provide the same ongoing advice and guidance as investment advisors, lumping the two into the same category even though they provide different services. Under the proposed rule clients will likely be redirected to a more expensive investment advisor model to ensure compliance or face additional fees for the costs of continuous monitoring, creating unnecessary barriers for consumers. The effect of these added costs is that many smaller-scale and retail investors will find it harder to build savings and wealth.

The projected negative ramifications of the rule are not suppositions but are drawn from experience with the Department of Labor's Fiduciary Rule in 2015. Several provisions in the Massachusetts proposal harken back to the 2015 DOL fiduciary rule proposal, such as the ongoing monitoring requirement. Following the implementation of the DOL rule, Deloitte conducted a study to understand the impact of the change and found that 95% of the firms studied limited the menu of investment options available to retirement investors in order to comply.¹

In reaction to the negative impacts of the DOL Fiduciary Rule, the federal government changed course and worked closely with the industry to create a regulation. The result, Reg BI, is a carefully crafted

¹ Source: [The DOL Fiduciary Rule: A study on how financial institutions have responded and the resulting impact on retirement investors](#)



system that protects consumers and provides clear guidance to the industry to ensure a consistent, reliable standard of conduct that prioritizes consumers' interests. The regulation does so by drawing from the fiduciary standard laid out for investment advisors and making important changes to ensure that consumers continue to have access to traditional brokerage services, often the most affordable entry into guided investments. The result is a bifurcated regulatory model that properly addresses the unique aspects of brokerage versus advisory services.

Beyond the individual investors, this proposed rule will affect Massachusetts municipalities. Currently, there is a strong network of underwriting syndicates, broker-dealers, and municipalities that works to the benefit of the Commonwealth. Under the new proposal, firms that agree to participate in the underwriting syndicate for municipal bonds in Massachusetts will likely interpret the regulation as barring their broker-dealer from then selling those same bonds on a principal basis to their Massachusetts-based investors. If firms are forced to choose between both underwriting Massachusetts bonds and then selling those bonds only on an agency basis, and not on a principal basis, we believe the firms may choose to opt out of the underwriting process, or significantly diminish their participation. The same disruption will limit the value of municipal bonds, which will diminish the related underwriting market, ultimately hurting residents and municipalities across the Commonwealth.

Moving forward with this aggressive new regulation without careful analysis of how it will impact consumers, businesses, and municipalities in Massachusetts puts our regional competitiveness at risk and will cause confusion for consumers. The Chamber believes the protection of everyday, middle-class investors must be prioritized in any regulatory change to the financial services industry, and that this proposal would unintentionally harm investors' ability to save. We urge the Division not to move forward with this new regulation for at least one year after implementation of Regulation Best Interest, which has the compliance date of June 30, 2020.

Sincerely,

A handwritten signature in cursive script that reads "James E. Rooney".

James E. Rooney
President and CEO