

SIFMA Proposal Falls Short in Protecting Investors, Says Fiduciary Group in Letter to Congress

Wall Street Lobby Seeks to Cut out Critical requirements of Disclosure, Managing Conflicts and Controlling Expenses in its Standard for Brokers Giving Investment Advice, says The Committee for the Fiduciary Standard

Washington, DC: October 20, 2009 – The Committee for the Fiduciary Standard, an independent panel of industry executives, today warned Congress that the position taken by Wall Street’s main lobbying arm on an Administration proposal to raise standards of brokers who give investment advice “demonstrate an apparent lack of understanding and / or commitment to, such fundamental fiduciary duties as full disclosure, the obligation to manage conflicts in the investor’s interest, and consideration of expenses in investment decisions.”

The Securities Industry and Financial Markets Association’s (SIFMA), position means “Absent these explicit fiduciary duties, investors interests will be demoted to second place,” Knut A. Rostad, Chair of the Committee for the Fiduciary Standard, and the Regulatory and Compliance Officer at Rembert Pendleton Jackson, said in a letter from the Committee to the Chairmen and Ranking members of the House Financial Services and Senate Banking Committees.

Rostad noted: “The authentic fiduciary standard (AFS) requires the legal obligations of ‘prudence’; SIFMA’s does not. The AFS requires disclosures of all material facts; SIFMA’s does not. The AFS requires advisors to control investment expenses, to disclose conflicts and also always attain fully informed client consent, and to manage conflicts in the client’s interest. SIFMA’s standard, unfortunately, does not.”

In connection with its letter, the Committee for the Fiduciary Standard, today released an analysis of SIFMA’s October 6 Congressional testimony <http://www.sifma.org/legislative/testimony/pdf/JohnTaft-Testimony-beforeHFSC.pdf> and comments on SIFMA’s views expressed by Kevin Carroll, Associate General Counsel of the trade group, in an October 7 webinar hosted by Wealth Manager. <https://www1.gotomeeting.com/register/215828096>. The analysis compares requirements of the authentic fiduciary standard, as established in law today, with the requirements SIFMA proposes brokers should meet (see table at www.thefiduciarystandard.org.)

The Committee urges Congress, the Securities and Exchange Commission and the Financial Industry Regulatory Authority to require the authentic fiduciary standard for brokers who give investment advice and registered investment advisors.

Congress begins this week to mark up legislation to implement the proposal. Copies of the letter were also sent to Mary Schapiro, Chair of the Securities and Exchange Commission, and Richard G. Ketchum, CEO of the Financial Industry Regulatory Authority.

The Committee for the Fiduciary Standard was formed earlier this year to work to ensure that new legislation and rulemaking “meet the authentic fiduciary standard, as presently established in law.” It introduced five core principles of the authentic fiduciary standard:

1. Put the client’s best interests first;
2. Act with prudence; that is, with the skill, care, diligence and good judgment of a professional;
3. Do not mislead clients; provide conspicuous, full and fair disclosure of all important facts;
4. Avoid conflicts of interest; and
5. Fully disclose and fairly manage, in the client’s favor, unavoidable conflicts.

The Committee’s members are recognized leaders in the investment profession:

- Blaine Aikin, fi360
- Clark M. Blackman II, Alpha Wealth Strategies, LLC
- Gene Diederich, Moneta Group
- Harold Evensky, Evensky & Katz
- Sheryl Garrett, Garrett Planning Network
- Roger C. Gibson, Gibson Capital, LLC
- Matthew D. Hutcheson, Independent Pension Fiduciary
- Gregory W. Kasten, Unified Trust Company
- Kate McBride, Wealth Manager
- Ronald W. Roge, R. W. Roge & Company
- Knut A. Rostad, Rembert Pendleton Jackson

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