INSTITUTE FOR THE FIDUCIARY STANDARD

News Release

Tuesday, April 10, 2012

Institute for Fiduciary Standard to SEC: SIFMA Proposal Harms Investors

In letter, Institute says Wall Street proposal falls way, way short, fails to conform to Dodd-Frank

WASHINGTON – The Institute for a Fiduciary Standard, in a letter to the Securities and Exchange Commission, warned yesterday that a proposal by Wall Street's major lobbying group, SIFMA, fails to uphold essential fiduciary principles. Fiduciary duties of loyalty and due care are replaced with broker-dealer guidance on suitable "broker sales" recommendations, support for conflicted advice, inadequate disclosure, and unrestrained fees. The letter notes, for example, that while the SEC requires advisers' disclosure of conflicts be effective for investors, SIFMA strenuously argues for disclosure that is efficient for broker-dealers.

For these and other reasons, the Institute concludes the SIFMA proposal does not meet the requirements of the Dodd-Frank Act. Dodd-Frank authorizes the SEC to establish a uniform fiduciary standard which "shall be no less stringent than the standard applicable to investment advisers," the Institute wrote in comment letter.

Boston University professor of law and Michaels Faculty Research Scholar, Tamar Frankel, a national authority on fiduciary law, points out, "A uniform standard must be uniform in all aspects. SIMFA's selective uniformity does not meet the Dodd-Frank requirement."

"SIFMA's proposed departure from the Advisers Act is dramatic," added Knut A. Rostad, president of the Institute for the Fiduciary Standard. "As an example, SIFMA advocates that all products available to investors today through the suitability standard should automatically be available through a uniform fiduciary standard, essentially negating the fiduciary 'best interest standard,' added Rostad. "Yet, FINFA CEO, Richard Ketchum has recently spoken out and urged BDs to NOT develop products that only meet the minimally acceptable suitability standard."

"Simply put, SIFMA is proposing a broker sales standard, not a fiduciary standard," said Knut Rostad, president of the Institute for a Fiduciary Standard. "It falls way, way short of the fiduciary obligation established under the Advisers Act. As such, SIFMA's is trying to overlay Wall Street's product sales model on to the Advisers Act fiduciary advice model."

About the Institute

The Institute for the Fiduciary Standard was formed in August 2011 as a fiduciary think tank to provide research, education and advocacy on the vital role of the fiduciary standard to all investors. In September, the Institute held, with co-sponsors TD Ameritrade and the Heartland Institute, Fiduciary Forum 2011, which featured a discussion, "Crafting Effective Disclosure -- Is It Possible?"

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