INSTITUTE FOR
THE FIDUCIARY STANDARD

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SEC Office of the Investor Advocate:

"An ill-advised SEC (broker-dealer uniform) rule could be worse than no rule at all... We will fight … (this) and to encourage rulemakings that are as strong as possible for investors."

Institute Comment

"Kudos to Investor Advocate Fleming for speaking out on why a weakened fiduciary standard in SEC rule making would be far worse than no rule at all and should be fought."

Introduction

On June 30th Rick A. Fleming, SEC Investor Advocate, submitted the Office of the Investor Advocate's annual report. The report discusses fiduciary duty and how the SEC may approach the issue. A link to the full report is provided here:
http://www.sec.gov/advocate/reportspubs/annual-reports/sec-office-investor-advocate-report-on-objectives-fy2016.pdf

Report Excerpt (Page 14)

"In light of Chair White's remarks .., the Office of the Investor Advocate will endeavor to provide a voice for investors as this important issue is addressed by policymakers.

For the Commission, it will be especially challenging to reconcile what appear to be contradictory mandates under … Dodd-Frank—to develop a standard for broker-dealers no less stringent than the existing standard for investment advisers, while accommodating sales-based compensation and the sale of proprietary products or limited product lines. ….….

In at least two significant ways, an ill-advised SEC rule could be worse than no rule at all. First, a rule could dilute the existing standard for investment advisers in an attempt to adopt a "harmonized" standard for broker-dealers. Second, …, a poorly-designed rule could create even worse confusion by purporting to give investors the protection of a "fiduciary duty" that is, in fact, less stringent than the traditional fiduciary duty that applies in other relationships of trust. We will fight to avoid these outcomes and to encourage rulemakings that are as strong as possible for investors."