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Secretary of the Commonwealth

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SECRETARY GALVIN ADMONISHES SEC TO ADOPT TRUE FIDUCIARY STANDARD OR ELSE STATE-SPECIFIC ACTION WILL BE NECESSARY

Secretary of the Commonwealth William F. Galvin submitted comments today to the Securities and Exchange Commission opposing their Regulation Best Interest proposal. In a letter addressed to Chairman Jay Clayton and his fellow commissioners, Galvin stated that the SEC was proposing a weak and unclear standard which, unless modified, would force Massachusetts to adopt its own rules to protect investors and require broker-dealers to provide non-conflicted advice in the best interest of their clients.

"I had hoped that the SEC would follow the lead of Congress, as set out in the Dodd-Frank Act, and propose a strong conduct rule which would protect working families from abusive practices in the brokerage industry when they save for retirement and other major financial goals, but this proposed standard falls far short of the protections Main Street investors need," Galvin said.

In his comments, Galvin called for investors harmed by bad conduct of their broker-dealers to be given the right to bring legal actions.

"I agree with Senator Elizabeth Warren, who pointed out recently that a doctor can't take a kickback from a drug manufacturer in exchange for giving you a certain prescription and broker-dealers should be held to the same standard," Galvin said. "You can sue your doctor for malpractice. You should be able to sue your broker-dealer for the same reason."

Galvin stated in his letter that stockbrokers serving retail investors need to be subject to a true fiduciary standard, which would require them to put their customers' interest first, in the same manner required for Investment Advisers. Galvin further stated that it is his belief that the

SEC's proposal presents merely a veneer of a fiduciary standard, and that the substance of the proposal will allow existing weaknesses in the Suitability Standard to persist.

"The proposal put forth by the SEC is no more than 'fiduciary light,' which will not protect the consumer, but will give industry plenty of cover from potential lawsuits," Galvin said.

Of particular concern to Galvin is that the SEC's proposal does not define the best interest of the customer, exacerbating existing confusion among investors who are unsure about the standards their broker must observe.

Galvin also noted that the SEC's proposal fails to state that sales contests and sales quotas are fundamentally inconsistent with the best interest standard. Galvin stated that his office has aggressively pursued firms which have continued to hold sales contests that have harmed investors.

"An investor's life savings should not be caught up in a contest to win a trip or other award," Galvin said.

Galvin pointed to real-life examples of investors who have lost billions of dollars as a result of conflicted investment advice by listing numerous enforcement actions his office has taken. The actions described in his letter recovered millions of dollars in losses for investors, caused by brokers making conflicted investment recommendations, promoting high-fee and high-commission products, and making fraudulent representations in order to induce investors to stay in poorly performing investments.

Galvin urged the SEC to replace the current proposal with a meaningful one that will put brokers on equal footing with investment advisors.

"As a regulator, I have seen the grievous harm suffered by Main Street investors who mistakenly trusted and relied on conflicted investment advice. The Commission now has the opportunity of a generation to protect them, if they fail to do so, it will be left to the states," Galvin said.

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