

VIA ELECTRONIC MAIL

February 23, 2010

The Honorable Christopher J. Dodd
Chairman
Senate Committee on Banking, Housing, and Urban Affairs
448 Russell Building
Washington, DC 20510

The Honorable Richard Shelby
Ranking Member
Senate Committee on Banking, Housing, and Urban Affairs
304 Russell Building
Washington, DC 20510

RE: Study and Rulemaking Regarding Obligations of Brokers, Dealers, and Investment Advisers

Dear Chairman Dodd and Ranking Member Shelby:

The Financial Services Institute (FSI)¹ urges you to support a study by the Securities and Exchange Commission (SEC) on investor protection issues in the debate over regulatory reform that are important to retail investors. Specifically, we ask you to include the language of Section 913 offered by Senators Johnson and Crapo in the Restoring American Financial Stability Act of 2009 (RAFSA).

Section 913 of the discussion draft of the RAFSA released on November 10, 2009 by Chairman Dodd would eliminate the broker-dealer exemption contained in the Investment Advisers Act of 1940. This exemption allows broker-dealers, and their financial advisors, to offer "solely incidental" advice to investors without registration as an investment adviser. The repeal of the exemption would require all firms and financial advisors who wish to provide advice to clients to become registered investment advisers.

The SEC study offered by Senators Johnson and Crapo would replace the discussion draft language of Section 913 and leave in its place a directive requiring the SEC to study all the issues surrounding harmonization of broker-dealer and investment adviser oversight. The purpose of the study is to determine the appropriate obligations of brokers, dealers, investment advisers, and their associated persons relating to the provision of personalized investment advice about securities sales to retail customers. The SEC would be required to report the results of the study to Congress within 18 months of the passage of the bill. If the study revealed there are

¹ The Financial Services Institute, Voice of Independent Broker-Dealers and Independent Financial Advisors, was formed on January 1, 2004. Our members are broker-dealers, often dually registered as federal investment advisers, and their independent contractor registered representatives. FSI has 119 Broker-Dealer member firms that have more than 178,000 affiliated registered representatives serving more than 15 million American households. FSI also has more than 13,700 Financial Advisor members.

regulatory gaps or overlaps in regulation that may harm or reduce protections to retail customers, the SEC would be required to draft rules to address these issues.

This study will provide the SEC, the financial services industry, and others with great familiarity with the retail market for securities sales and investment advice the opportunity to shape these important regulatory reforms. Expertise in these areas is essential to insure that the final regulatory reforms support universal access to competent investment advice, clear and concise client disclosures, and uniform and effective regulatory supervision of all market participants.

Thank you very much for your consideration. If you have any questions, feel free to contact me at 202 379-0943.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dale Brown", written in a cursive style.

Dale E. Brown, CAE
President & CEO

cc: Ed Silverman
Dean Shahinian
Bill Dunke
Hester Pierce
Andrew Olmem
Laura Swanson
Gregg Richard