Testimony of Dennis P. Cuccinelli

National Association of Insurance & Financial Advisors – New Jersey

November 19, 2018

Good morning. My name is Dennis Cuccinelli and I come before you this morning on behalf of the National Association of Insurance & Financial Advisors - New Jersey (NAIFA NJ).

The National Association of Insurance and Financial Advisors, NAIFA NJ, was chartered in 1938. NAIFA NJ is the collective voice for Insurance Agents and Financial Advisors in New Jersey and emphasizes ethical conduct; quality education & training; practice management; and mentoring.

Enhancing the reputation of advisors and providing quality professional development opportunities is a high priority for NAIFA NJ. NAIFA NJ is the premier association for insurance and financial advisors and we consistently work to protect our ability to serve the public. We have always supported reasonable efforts to protect our clients from unethical behavior and predatory financial practices.

We would like to thank Governor Murphy and the Bureau of Securities in its efforts to protect New Jersey consumers. We share this same desire and, as a matter of practice, seek to protect our client's interests on a daily basis.

It is in this spirit that I come to you today to respectfully ask that you delay considering new rules affecting fiduciary standards.

It is no secret that the Securities & Exchange Commission (SEC) is in the middle of an extensive rulemaking process that will apply consistent new requirements on a nationwide basis and will implement, among other things, a heightened 'best interest' standard of care for broker-dealers and their representatives as well as new disclosure requirements regarding the nature of the broker-dealer/client relationship.

NAIFA NJ feels that the Bureau of Securities would be making a mistake if it were to promulgate regulations, regulations that would most certainly differ from those being considered by the SEC, before the SEC has completed its rule making process.

By moving forward with regulations, the Bureau of Securities will be creating a crisis. What are advisors to do when federal and state requirements conflict with each other and they are placed in the difficult, if not impossible, position of deciding how to comply with the differing and conflicting requirements?

There is also the negative impact on low and mid-size companies that needs to be considered. The Bureau needs to keep in mind that a fiduciary rule would limit access to financial products as well as the advice and services of financial professionals. A fiduciary rule could push advisors into a fee rather than commission compensation arrangements. Most fee only advisors have minimum asset requirements of $250,000, $500,000 or more—NAIFA members clients generally do not have this level of assets---so where will they get advice and service from?

Besides creating a clear conflict between differing regulatory authorities, the Bureau of Securities is at great risk of pre-emption under the National Securities Markets Improvement Act of 1996. This act expressly pre-empts states that impose new or different record keeping standards.

We cannot urge you strongly enough to wait until the SEC promulgates their regulations. Failure to do so will cause great harm on the advisors and the clients they represent.

Thank you for your kind consideration of this testimony.

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