NEW JERSEY

David House
President
House.david@principal.com
856-985-2200

Kristine Buckles
Executive Director
baysideagency@outlook.com
847-587-0282

Corrado Gugliotta
President-Elect
cgugliotta@financialguide.com
201-446-7141

Steven Horvath
Secretary
shorvath@nlgroupmail.com
908-331-0543

Dennis Cuccinelli
National Committeeperson
dennis@dcuccinelli.com
908-310-8400

Jennifer Long
Vice President of Government Relations
jlong@nlgroup.com
917-716-6384

Irene Stolte
Vice President of Membership
istolte@ft.newyorklife.com
732-626-5488

Thomas Piersanti
Immediate Past President
Tcpsr14@aol.com
609-870-4280

US Mail Address:
NAIFA-NJ
2550 N. Lakeview - S704
Chicago, IL 60614

National Association of Insurance and Financial Advisors – New Jersey

December 10, 2018

Christopher W. Gerold, Chief
New Jersey Bureau of Securities
PO Box 47029
Newark, NJ 07101

Re: PPR 2018-004 (Fiduciary Duty)

Dear Chief Gerold:

Please accept on behalf of the National Association of Insurance & Financial Advisors – New Jersey (NAIFA-NJ) the following comments in response to your Bureau's Pre-Proposal on Fiduciary Duty.

NAIFA-NJ was chartered in 1938. Our members live and/or work in New Jersey. 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 and our clients.

The mission of NAIFA is to advocate for a positive legislative and regulatory environment, enhance business and professional skills, and promote the ethical conduct of its members. We have always supported reasonable efforts to protect our clients from unethical behavior and predatory financial practices.

As we presented at the public hearing held on November 19th, we would like to thank Governor Murphy and the Bureau of Securities for their 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.

We feel we would not be protecting our client's interests, however, if we did not strongly urge you to delay considering new rules to put in place a fiduciary standard.

As is widely known, 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.
By moving forward with new regulations at this time, the Bureau of Securities will be unnecessarily 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?

It is not just broker-dealers that will be thrown into turmoil with conflicting regulations, there is also the negative impact on lower and mid-size investors that needs to be considered. By imposing a conflicting fiduciary rule, the Bureau would be limiting access to financial products as well as the advice and services of financial professionals.

As presented more than once at the public hearing, a fiduciary rule could push advisors into fee-based 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?

It is our understanding the pre-proposed regulations will target "bad actors" who are not acting in their clients' best interest. These advisors will continue to act outside both the current laws and regulations as-well-as any new laws and regulations. New Jersey consumers would be better served by learning how to make a smart choice when choosing an advisor. Investor education is a critical component of sound financial planning. NAIFA-NJ would be happy to work with the Bureau and other interested parties in providing such education.

Lastly, besides potentially creating a clear conflict between differing regulatory authorities, the Bureau of Securities' proposed rule would be 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 can see no way how the New Jersey proposal would avoid pre-emption and would direct your attention to the delays faced by Nevada in their similar efforts to propose and implement a fiduciary duty regulation.

A little patience by the Bureau now will go a long way to avoid such problems and will best serve the interest of New Jersey residents. We cannot urge you strongly enough to wait until the SEC promulgates their regulations, as failure to do so will cause great harm to advisors and the clients they represent.

Sincerely,

David House
President