

December 11, 2006

Office of the Secretary of the Commonwealth
Attention: Proposed Regulations
Securities Division, Room 1701
One Ashburton Place
Boston, MA 02108

RE: Proposed Regulations on the Use of Senior Designations

Dear Secretary Galvin:

The Securities Industry and Financial Markets Association (SIFMA or “The Association”)¹ appreciates the opportunity to comment on the Massachusetts Securities Division’s (the “Division”) proposed regulations prohibiting broker-dealer agents and investment adviser representatives from using certain professional designations that state or imply a specialized knowledge of the financial needs of senior investors. SIFMA applauds the Division’s interest in protecting all investors – including seniors – from fraudulent conduct and abusive sales practices. It also recognizes and respects the Division’s interest in ensuring that investors are not misled by meaningless senior designations.

At the same time, SIFMA does have some concerns with the proposal as drafted. First, the Association is worried that, in the near future, the industry could be subject to 50 widely varying regulatory schemes involving senior designations. It notes that since your rulemaking was published, Nebraska has implemented its own unique procedures whereby different designations cannot be used unless previously approved by the Department. Certainly, monitoring, identifying, and implementing new senior designation requirements in the 50 states would impose additional administrative burdens and costs on the industry. It would also be confusing for seniors as different designations are deemed appropriate in different states. SIFMA respectfully suggests that the Division work with NASAA on developing Model Guidelines to ensure greater uniformity across the states. SIFMA, of course, would be happy to help in this effort if that is appropriate. It also urges the Division to coordinate its efforts with the SEC and the NASD.

¹ The Securities Industry and Financial Markets Association brings together the shared interests of more than 650 securities firms, banks and asset managers. SIFMA’s mission is to promote policies and practices that work to expand and perfect markets, foster the development of new products and services and create efficiencies for member firms, while preserving and enhancing the public’s trust and confidence in the markets and the industry. SIFMA works to represent its members’ interests locally and globally. It has offices in New York, Washington, D.C., and London and its associated firm, the Asia Securities Industry and Financial Markets Association, is based in Hong Kong.

Second, we note that the proposed rule is limited to investment advisers and broker-dealers. We recommend that the Division coordinate its efforts with the Division of Insurance to ensure that insurance agents, who may also hold themselves out as offering investment advisory or financial planning services, are subject to similar prohibitions on the use of misleading designations.

Third, SIFMA is concerned that the Division defines "senior investor" to "include a person 50 years of age or older." Most fifty year-olds would be offended to be classified as seniors. Indeed, a person who is fifty cannot claim any Social Security benefits for twelve years and cannot receive full Social Security benefits for seventeen years. SIFMA would recommend increasing the age to 67.

Fourth, some "Senior" titles have nothing to do with a registered representative's special expertise in working with seniors. Rather, much like the title "Senior Counsel" at a law firm, it reflects the registered representative's stature at or length of service with the firm. SIFMA strongly encourages the Division to not eliminate this appropriate use of the term "senior."

Finally, it is important to recognize that new regulations will not preclude the small percentage of bad actors from continuing to engage in improper activity. Current regulations already prohibit the use of "any advertising or sales presentation in a deceptive or misleading manner." Aggressive enforcement of existing regulations may be as effective as creating new ones.

We appreciate the opportunity to provide comments and look forward to working with you on enhancing investor protection. Should you have any questions, please contact me at 212-720-0611.

Sincerely,

Kim Chamberlain
Vice President & Counsel
State Government Affairs

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