



SIFMA C&L Society Annual Seminar 2015

JW Marriott Desert Ridge, Phoenix, AZ

Tuesday, March 17, 2015

General Session Remarks

8:00 am-8:15 am

As prepared for delivery

Kenneth E. Bentsen, Jr.,

President and CEO of SIFMA

Good morning. I'm Ken Bentsen, president and CEO of SIFMA. Thank you for joining us at the 47th Annual Compliance & Legal Seminar.

Over the years the C&L Annual Seminar has evolved into SIFMA's marquee event for the securities compliance and legal practice. As the role and responsibility of compliance and legal professionals continue to grow, it is critical that this forum of industry and regulators come together to educate each other and share ideas and concerns.

This conference would not be possible without the members who volunteer their time and leadership over the past year, to develop the programming and recruit the speakers and panelists, which represents just some of their work that goes into this event. I particularly want to call out a few people for special recognition:

- Our immediate past C&L President – Howard Plotkin of RBC Capital Markets. Howard, thank you for your leadership and commitment over the past two years. I can attest first hand that there is no more enthusiastic and forceful advocate for the C&L Society than Howard.
- The current C&L Society President – Scott Bieler of Fidelity Investments. Your leadership will continue to be an asset not just to the C&L Society, but the entire industry;
- The conference chair, Elaine Mandelbaum of Citi Institutional Clients Group. Elaine, thank you for your leadership, time and commitment to building this robust conference.
- The Entire Planning Committee – all of who are listed in the program – thank you for your dedication and commitment to the C&L Society.
- I also want to recognize my SIFMA colleagues who work with the Society and Conference leadership throughout year, led by our general counsel, Ira Hammerman, Rachel Jackson who manages SIFMA's ongoing relationship with the Society, Associate General Counsel Kevin Zambrowicz, and Sal Chiarelli and his entire team who make sure that the conference goes off without a hitch.

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I'd also like to take this opportunity to recognize the generous support of our sponsors who have made this event so successful, and to thank the many law firms and consulting firms who support SIFMA throughout the year through sponsorships, associate memberships, and other efforts. We also appreciate the partnership with our many outside counsel, as SIFMA works with roughly forty law firms on projects ranging from comment letters to white papers and Amicus briefs, and we value your expertise.

We have another day of tremendous programming both at this morning's general session and the innumerable breakout sessions. While I would like to think that so many of you turned out this morning to hear my remarks, I feel pretty confident that you're more interested in what our next speaker has to say, as am I, and so I will be brief.

We are all abundantly aware of the ever-changing landscape for our industry as result of a plethora of new regulatory mandates (on top of the plethora of existing regulatory mandates), economic conditions, marketplace evolution, technical innovation, globalized markets, changing demographics and existential threats and challenges. Each day we continue to maneuver through these changes and adapt to enhance our industry's compliance and risk management practices.

While some continue to challenge the role and social value of capital markets, a charge that I believe is specious and not supported by any empirical evidence; it is also important to recognize that the industry has changed dramatically since the last crisis, and that change continues. We must also recognize that the industry has a responsibility not just to respond, though response is often necessary, but also to lead. And leadership can take many forms, both in terms of new initiatives and innovation, and in terms of standing up for what we believe is right, even if it means challenging our regulators or a popular sounding but ultimately counterproductive notion.

I would like to point out a few areas where I believe the industry has led over the last year related to some of the changes I noted above.

No one knows better than the people in this room and at this conference about the avalanche of regulation confronting the industry. This is a highly regulated industry that is now even more regulated. Whether we agree with the diagnosis or prescription of every new rule, I believe that, on the whole, the interchange between the industry and our regulators has been largely and appropriately collaborative. Notwithstanding the occasional, and I believe incorrect, criticism by some in the media and elsewhere that industry overwhelms the regulators with our own "army of lawyers and lobbyists," I believe the process of give and take as prescribed under the Administrative Procedures Act has proceeded quite accordingly. I would point out, that armies notwithstanding, it is

ultimately the regulator who controls the pen. Now this should not be interpreted as an endorsement of the final content of all the rules, in many instances we have our differences, but rather that the process is largely proceeding as Congress intended, with some important exceptions.

There needs to be a dialogue and collaboration between the regulators who are charged with implementing and enforcing the law, and the industry firms who must develop, build, train and operate the compliance and reporting systems to comply with the law. That's no easy task, and as such it should not and cannot be a one-way discussion. And that is not to say that the process could not be better. With the multi-headed functional regulatory apparatus we have the United States, and the increasingly global nature of the business, and the emerging global nature of regulatory initiatives, it is even more imperative that regulators improve collaboration amongst themselves, both domestically and internationally. It is critical that there is sufficient dialogue and collaboration across the various disciplines of functional regulators, particularly when it comes to crafting new rules for capital markets structure, practices and functions. And, it is equally important that regulators communicate as clearly, and when possible, with one voice to the industry. Finally, just as it is important for the industry to acknowledge when it has gotten something wrong, so do policy makers and regulators have such an obligation, in my opinion, as former policymaker myself.

I believe it is important that the industry take a leadership role to respond to the changing landscape with respect to market evolution, changing demographics and technological innovation, and I think we are. Over the past several years, the industry has stepped forward to offer concrete solutions and recommendations to address many challenges we face. For instance, six years ago our members called for the Congress to authorize, and the SEC to develop, a uniform standard of care when brokers and registered investment advisors are doing the same thing in providing personalized investment advice. And, we called for improving the oversight and examination regime for retail registered investment advisors. At the same time, we argued, and continue to argue, that improving investor protection does not have to mean reducing or limiting investor choice or raising their costs.

We believe it is important for investors, of all income levels, to have the right to choose the type of service they want to purchase, at the price they want to pay. We recognize it's not an easy task and no doubt the SEC has found that to be true as they continue their review and study of the matter. We are concerned that other efforts, such as that previously contemplated by the Department of Labor in 2010, and now subject to re-proposal pending review by the Office of Management and Budget, could result in unnecessarily restricting investor choice and raising investor cost. This is a serious and complicated matter with real consequences that deserves more than campaign-like

hyperbole and innuendo seeking to impugn an entire profession based on questionable data that conveniently and incorrectly ignores the legal and regulatory framework governing brokers and advisors. We have learned all too often that when regulators must implement and operationalize otherwise simplistic rules, the outcomes far overshoot the goals.

While we always strive to work with our regulators, we will not shy away from making our views known, and in fact just yesterday we released a study that raises several questions regarding the research proffered by the White House in support of the DOL re-proposal.

We have also come together as an industry to propose substantive concrete proposals to address technological innovations that impact market structure and practices. There is no question that our markets are more efficient, enjoy better execution, and are more cost efficient than in anytime in our history. This is the byproduct of regulatory change and technological innovation. But our markets have also become more fragmented; complex and confusing to some; and unabated that could serve to undermine investor confidence. Our members last summer put forth several recommendations to update our existing equity market structure, improve resiliency, transparency, and ultimately enhance investor confidence.

Many of these recommendations are similar to those offered by the SEC and our next speaker. This is an example of where the industry is showing leadership and collaborating productively with its regulators. Likewise, as our society fully integrates itself into the digital era, our members, on both the business and compliance side, are working with our regulators to better understand how the industry and the rules can adapt to this brave new world that will soon likely subsume what us aging baby boomers have understood to be modern forms of communication. Technology can be a good thing if used appropriately. It can lead to efficiencies and smart regulations, decrease costs, reduce human error, and serve as useful tool for analyzing large pools of data. However, with all the benefits that come with technology, there are also potential pitfalls.

The insatiable appetite for big data is another area that is ever-evolving and playing a growing role in our work. With its growing presence, it brings an array of benefits, as well as a brand new set of challenges. We must, however, remain mindful of balancing the risks and rewards presented by technology. Regulators must avoid this temptation because new systems are costly to design, implement and maintain. It's also important that our regulators are careful not to require duplicative or concurrent programs, as well as weigh the impact on privacy and the protection of customer data. In the age of increasing cyber threats, we must be careful not to compromise personal or sensitive data in our quest to reap the benefits of technology.

Big data and technology can never be a substitute for human insight and observation. Technology should be a tool that complements the work of the compliance officer and the regulator, not replace it. We cannot allow our regulators to become robocops, as isolated data is too impersonal. At the very core, compliance must incorporate the individual interactions of regulators and the persons they regulate. They need to see and understand each other. A regulator needs to know a firm's business, the evolution of that business and the personality of the firm's personnel, including the compliance personnel. Data alone does not account for these necessary elements of a functional regulatory regime.

Finally, we must be prepared to take a leadership role and respond to emerging threats, as well as trends that create new industry issues. Two that I would highlight are cyber security and our aging population. As I mentioned last year, our industry and its leaders view the threat posed by cyber criminals, hacktivists, nation-states and terrorists the most serious facing the industry. And the industry, as a whole, and in collaboration with the government, is working diligently to improve its defenses and coordination. Defenses include the development and adoption of standards and enhancing our information sharing capabilities through universal adoption by all industry participants, including third party vendors. It also means improving our recovery protocols and processes and enhancing our partnership with the various government entities engaged in protecting the nation. This cannot be regulated away, and it must be an iterative and ongoing process among all participants, regulator and regulated.

With our aging population, and the benefits of increased life expectancy, our industry also faces new issues related to senior investors. Over the last several years, our members have identified the need to update rules, and perhaps laws, to better equip regulators and advisors on how they confront an aging client, particularly those with cognitive impairment. As with social media, many of our rules, well intentioned at the time of creation, are not applicable to the times we live in today. Again, this is an area where collaboration between our regulators and the industry is critical, and I am pleased to say, is happening. Our members and staff are working closely with our regulators at the federal and state level to develop a model framework to develop a 21st century approach and ensure that everyone has the capability to protect the interests for our older investors.

As evident from what I've just detailed, we have seen a lot of changes over the last decade, from the onslaught of regulations, a greater integration of technology into our roles, and heightened public scrutiny. This increased recognition of the importance of the compliance function, in turn, means that strengthening compliance departments has become a top priority – and that's a good thing.

That's why your role is more important today than ever before, and why the Compliance & Legal Society is such a critical component of SIFMA. As firms work to implement all of these new regulatory changes and look for ways to improve business practices, they turn to you for advice and guidance on the best path forward. So much of what comes out of Dodd-Frank and other reform initiatives is landing at your doorstep, and it's our goal here at SIFMA to help you stay connected and be prepared for these responsibilities.

Before introducing our next speaker, I want to close by leaving you with a couple of recent observations regarding our industry, and how we are viewed globally. We have been through tremendous change since the financial crisis, and many things have changed. But at the same time, some things have not, such as our industry's ability to fuel growth and create jobs, and that is a good thing. I recently met with the CEO of the Shanghai Stock Exchange who explained to me how they are trying to develop their markets and grow their investor base in order to enhance China's growth potential. He said we want to learn from the US experience, and the development of the US markets. And just two weeks ago, SIFMA had the opportunity to host the EU's new Commissioner for Financial Stability and Financial Markets at our offices, where he discussed the Commission's Capital Markets Union initiative. If you read the Commission's green paper on the Capital Markets Union you will note that the Europeans are looking to the United States, and our capital markets system, as a way to grow Europe, just as we have helped to grow the US economy. This is something that I think all of us, those in the industry, and our friends in the regulatory system, should be very proud of.

With that, I thank you again for your participation in this conference and not it is my great honor and privilege to introduce our next speaker, the Honorable Mary Jo White, the 31st Chair of the Securities and Exchange Commission. Chair White joined the SEC almost two years ago, bringing decades of experience as a federal prosecutor and securities lawyer. As the U.S. Attorney for the Southern District of New York, she specialized in prosecuting complex securities and financial institution frauds and international terrorism cases. Her career is also marked with private sector experience serving as chair of the litigation department at Debevoise & Plimpton in New York. She earned her undergraduate degree, Phi Beta Kappa, from William & Mary, her masters degree in psychology from The New School for Social Research, and her law degree at Columbia Law School, where she was an officer of the Law Review.

Chair White has won numerous awards in recognition of her outstanding work both as a prosecutor and a securities lawyer, and has served as a director of The NASDAQ Stock Exchange and on its executive, audit, and policy committees. She is also a member of the Council on Foreign Relations.

At Chair White's request, rather than speaking, we are going to have a conversation. So with that I will ask Chair White to join me on the stage.