



NASAA

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Vote “yes” on Cohen-Frank Amendment to H.R. 4173

Dear Member of Congress:

On behalf of NASAA, the association of state securities regulators who work every day to protect your investing constituents and the oldest international organization devoted to investor protection, I urge you to vote for the Cohen-Frank amendment to H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009.

The Cohen-Frank amendment would strip from the bill a provision that would permit the SEC to delegate expanded supervisory responsibility to the broker-dealer membership organization known as FINRA. This expanded authority would incorporate oversight of the investment advisory activities of FINRA’s current member firms as well as their associated persons. Additionally, the amendment would give FINRA sweeping rule-making authority over investment advisers, which has been the sole domain of governmental regulatory agencies. This rulemaking authority could potentially be used by FINRA to weaken the fiduciary duty requirements of its membership under the guise of a “harmonized” fiduciary standard. The amendment would result in a major shift in the regulation of investment advisers to a private, membership organization without experience in enforcing the fiduciary duty and without the benefit of any meaningful study or evaluation of its performance in protecting the investing public. This authority would likely result in the dismantling of nearly a century of state common law.

During the Committee discussion of this amendment, which was adopted by a voice vote, Chairman Frank remarked that regulation should be a governmental function and I wholeheartedly agree. I am opposed to any effort to expand the jurisdiction and authority of private, membership organizations into an area that is more appropriately the province of government. For decades the regulation of investment advisers has been the responsibility of state and federal government, both of which are transparent and accountable to the investing public. Extending this broad responsibility to a private, membership organization amounts to an “outsourcing” of a critical government regulatory obligation. Further, any attempt to expand FINRA’s authority makes little sense in light of its regulatory failures. Therefore, I would like to express my strong support for the amendment from Congressman Cohen and Chairman Frank that would remove this damaging provision from the bill.

State securities regulators are committed to continuing their work with the House of Representatives in its efforts to strengthen, not weaken, the financial services regulatory framework and provide the best possible protections for American investors.

Sincerely,

Denise Voigt Crawford
Texas Securities Commissioner and
NASAA President

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