The Honorable Daniel K. Akaka  
141 Hart Senate Office Building  
Washington, D.C. 20510  

Dear Senator Akaka,

We are writing to express our strong support for your efforts to ensure that professionals who advise America’s investors are held to the highest standard of care – the fiduciary standard. Section 6(b) of the Mutual Fund Transparency Act of 2009 (“MFTA”) would clearly establish that brokers are subject to a fiduciary duty with respect to investment advice provided to retail investor clients. This provision eliminates a regulatory gap that has long exposed investors to unscrupulous and harmful sales practices by brokers.

Under current law, brokers are subject to a general suitability standard when providing investment advice to their retail clients. Under a suitability standard, a broker is not required to ensure that his recommendations are what is best for his clients, but only what is generally suitable. The suitability standard allows brokers to recommend investments, for example, based on the amount of compensation the broker receives rather than what is in the best interest of the client. The suitability standard does not even require brokers to disclose their compensation so that their clients can evaluate conflict of interest payments for themselves.

In contrast, investment advisers are subject to a strict fiduciary duty under the Advisers Act. As such, they are required to make recommendations only if they are in the client’s best interest and to disclose all material conflicts. By applying the fiduciary standard under the Advisers Act to brokers, Section 6(b) of the MFTA ensures that the protection of a fiduciary standard for retail advisory clients will not depend on an arbitrary regulatory distinction between brokers and investment advisers, but will be applied rationally to provide all Americans who receive investment advice with the regulatory protection that they expect and deserve.
We wish to express our enthusiastic support for your proposal to establish a fiduciary duty for brokers and are available to provide whatever assistance you may need in this respect.

Respectfully submitted,

[Signature]
Mercer Bullard, Founder and President
Fund Democracy, Inc.

[Signature]
Barbara Roper, Director of Investor Protection
Consumer Federation of America

[Signature]
Denise Voigt Crawford
Denise Voigt Crawford, Texas Securities Commissioner and President, North American Securities Administrators Association, Inc.

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Ellen Turf
Ellen Turf, CEO
National Association of Personal Financial Advisors

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Kevin R. Keller
Kevin R. Keller, Chief Executive Officer
Certified Financial Planner Board of Standards, Inc.

[Signature]
Marvin W. Tuttle Jr., CAE
Marvin W. Tuttle Jr., CAE
Executive Director and CEO
Financial Planning Association

cc: The Honorable Mary Schapiro