

From: [NAME]
To: [NASAA Comments](#)
Subject: [EXTERNAL]Urging Withdrawal of NASAA's Proposed Broker-Dealer Model Rule Changes
Date: Wednesday, November 29, 2023 5:57:49 PM

Dear North American Securities Administrators Association,

As a citizen of [STATE], I write to comment on the Proposed Revisions to NASAA's Model Rule on Dishonest or Unethical Business Practices of Broker-Dealers and Agents dated September 5, 2023. I respectfully urge NASAA to withdraw the Proposal.

First and foremost, the Proposal directly conflicts with the SEC's Regulation Best Interest (Reg BI), thus imposing a heightened obligation on broker-dealers, creating a new patchwork of state broker-dealer regulation, and unnecessarily increasing compliance costs for firms and their customers.

Second, the proposal would reformulate the SEC's requirement that broker-dealers consider "reasonably available alternatives" when making a recommendation to a retail customer. The SEC requires a nuanced—product agnostic—analysis that considers the various facts and circumstances relevant to each retail customer; a broker-dealer may not satisfy Reg BI "by simply recommending the least expensive or least remunerative security without any further analysis of these other factors and the retail customer's investment profile." The NASAA Proposal, however, prescribes a new simplistic analysis driven only by cost and risk at the detriment of other factors such as performance or investment profile, to the detriment of portfolio diversification and volatility management.

Third, the Proposal conflicts with Reg BI by effectively banning most forms of compensation. Reg BI preserves virtually all forms of compensation that broker-dealers traditionally have earned. The NASAA Proposal would presume that receipt of any type of compensation (other than the sales commissions) violates the broker-dealer and agent's obligation to act in the customer's best interest. The Proposal would effectively prohibit payments, bonuses, incentives, and other transaction-based compensation that have been earned by broker-dealers for decades.

Fourth, the Proposal would conflict with Reg BI by substituting untested, novel concepts for well-understood terms in federal securities regulation. The Proposal would rewrite the meaning of the terms "recommendation" and "retail customer" in ways that would cause uncertainty, confusion, and potential chaos in the compliance programs of broker-dealers. The Proposal would also introduce a new and novel concept of "neutralize" with a corresponding preclusion of disclosure as a stand-alone solution for any conflict of interest in direct contravention of Reg BI.

Because of all the concerns addressed above, I urge you to withdraw the proposal in its entirety.

Regards,
[NAME]