



June 26, 2019

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives

Dear Speaker Pelosi and Leader McCarthy:

The Institute for Portfolio Alternatives (IPA) urges you to oppose the Waters amendment (#78) to H.R. 3351, the Financial Services and General Government Appropriations Act (FSGG). The Waters amendment would prohibit the Securities and Exchange Commission (“SEC”) from implementing, administering, enforcing or publicizing the final rules and interpretations of SEC’s Regulation Best Interest: The Broker-Dealer Standard of Conduct (“Reg BI”).

For over 30 years the IPA has raised awareness of portfolio diversifying investment (PDI) products among stakeholders and market participants, including investment professionals, policymakers and the investing public. We support increased access to investment strategies with low correlation to the equity markets: lifecycle real estate investment trusts (Lifecycle REITs), net asset value REITs (NAV REITs), business development companies (BDCs), interval funds and direct participation programs (DPPs). Through advocacy and industry-leading education, the IPA is committed to ensuring that all investors have access to real assets and the opportunity to effectively diversify their investment portfolios.

Adopted by the SEC on June 5, 2019, Reg BI is the most comprehensive enhancement of the standard of conduct rules governing broker-dealers since the enactment of the Securities Exchange Act of 1934. The new SEC rules dramatically and undeniably exceed the previous broker-dealer suitability standard by requiring a duty of loyalty, meaning that a broker’s recommendations must be in the customer’s best interest and that the broker cannot place its own interests ahead of its customer. The regulations impose a duty of diligence, care and skill in making the recommendations, thereby holding the broker accountable for failures of knowledge or skill.

Brokers must also have policies and procedures to mitigate or eliminate financial conflicts. The new Reg BI standard is both equivalent to and, in certain provisions, exceeds what is required by the Investment Advisers Act of 1940.

Reg BI also includes significant compliance policies and procedures for brokers which will be enforced by the Financial Industry Regulatory Authority (FINRA) and the SEC. Brokers must create a record of all information collected from and provided to the retail customer as well as the identity of each registered representative responsible for the account.

The issue of raising the standard of care for broker-dealers has been debated for decades. The SEC has promulgated a substantive rule that materially and unalterably raises that standard consistent with Section 913 of the Dodd Frank Act. It makes no sense to prevent the orderly implementation of this important new set of regulations that would provide strong investor and consumer protections for forty-three million households.

The IPA and its members strongly oppose the Waters amendment #78 and urge you to vote no. If you have any questions, please do not hesitate to contact me or Anya Coverman, IPA's Senior Vice President, Government Affairs and General Counsel, at (202) 548-7190.

Sincerely,



Anthony Chereso
President & CEO, Institute for Portfolio Alternatives

CC: The Honorable Maxine Waters
The Honorable Patrick McHenry