

**Testimony of Pamela Everhart  
On behalf of Fidelity Investments  
Before the Office of the Secretary of the  
Commonwealth Hearing on the Fiduciary  
Proposal**

**January 7, 2020**

**Introduction**

Good Morning! My name is Pamela Everhart, and I am Head of Regional Public Affairs for Fidelity Investments.

Fidelity appreciates the opportunity to present our views on Massachusetts' proposed fiduciary rule.

Fidelity puts the interests of our customers first and we take great pride in guiding our customers towards products and ideas that will help them live a better, more financially secure life.

In addition to employing over 8,000 Massachusetts residents, Fidelity proudly serves 2.1 million Massachusetts consumers who entrust us with over \$352 billion in assets and for whom we exercise discretion in managing over \$37 billion.

Fidelity is laser-focused on, and committed to, delivering innovative products and services for the benefit of all our customers.

We have a track record of demonstrating that commitment.

Most recently, Fidelity became the only firm to offer our customers the unmatched value of:

- **zero commissions** for online equity and options trading
- **zero** expense ratio index funds
- **zero** minimums to open a retail brokerage account, and
- **the automatic default** of customer cash to a money market fund with a higher yield than the bank sweep options offered by our competitors.

These innovations challenge industry practices and provide long-term value to our customers by putting their interests first.

Consistent with Fidelity's customer-focused mission, we have championed federal rules to require brokers to act in the best interests of their customers.

We support the SEC's recently adopted Regulation Best Interest, commonly referred to as "**Reg BI**".

Reg BI is a strong, national standard which requires brokers to put the financial interests of the customer first.

Critically, Reg BI increases investor protection *without* limiting customer choice.

The Division's Proposal does not strike a similar balance and we are very concerned that it will have unintended consequences for Massachusetts consumers.

Therefore, Fidelity cannot support this Proposal.

We respectfully request that the Division withdraw the Proposal and reassess the need for it once Reg BI has been fully implemented and its benefits for investors have been measured.

We also anticipate that the U.S. Department of Labor will shortly propose an investment advice rule and would also ask the Division to evaluate the additional protections afforded by that rule.

While our comment letter contains a comprehensive discussion of our views, I'd like to highlight the three primary reasons Fidelity cannot support the Proposal.

- **First, the Proposal will impact Massachusetts consumer's access to low-cost brokerage advice.**

Fidelity customers are currently free to choose a brokerage account, an investment advisory account, or both, depending on their investment goals.

In fact, an estimated 98% of low- and middle-income consumers choose to open a brokerage account to receive point-in-time brokerage advice, rather than choosing the on-going advice provided by an investment adviser for a fee.<sup>1</sup>

Brokerage customers come to Fidelity seeking guidance with very important investment decisions, such as:

- How should I save for retirement?
- How can I most effectively save to send my daughter or son to college?

---

<sup>1</sup> Oliver Wyman report: Assessment of the impact of the Department of Labor's proposed "fiduciary" definition rule on IRA consumers (April 12, 2011).

- And, what are my options when switching jobs and considering what to do with money in my 401k? Should I cash out or continue to save it?

On the other hand, there are some Fidelity customers who choose professional investment management, including ongoing advice and account and investment monitoring.

These individuals make the educated decision to choose an advisory account and pay asset-based fees for this more extensive, on-going service.

To the extent that the Proposal imposes duties that are incompatible with traditional brokerage services, such as a duty to conduct ongoing monitoring of a customer's account, it will impact Massachusetts consumers' ability to choose the type of financial services they want to receive and the costs of those services.

**Second, the Proposal will impact Massachusetts consumer's access to investment products.**

Both Reg BI and the Advisers Act allow the use of disclosure to address conflicts of interest, where appropriate.

The Division's proposed rule states that broker-dealers cannot mitigate conflicts through disclosure.

Requiring a broker-dealer to eliminate or avoid conflicts, as opposed to disclosing or mitigating a conflict, where appropriate, creates the potential for negative real-world consequences for Massachusetts investors, such as reduced access to the following types of investment products:

- **Municipal Bonds**, including securities issued by municipalities in the Commonwealth;
- **College Savings Plans**, where Fidelity is the Sponsor for the Massachusetts 529 College Savings Plan; and,
- **Proprietary products**, including proprietary mutual funds.

**Third, the Proposal is premature given significant, new federal rules.**

Broker-dealers are required to comply with Reg BI in just six months.

And, the U.S. Department of Labor is expected to propose retirement investment advice rulemaking imminently.

The benefits of allowing these significant, new federal rules to become established are clear.

We urge the Division to observe and measure the impact of these rules on Massachusetts consumers and the marketplace before it decides to move forward with its own standard.

### **In Conclusion,**

Fidelity provides these comments for the benefit of our Massachusetts customers.

The Proposal will negatively impact **Massachusetts** consumers' ability to invest for their financial goals. This is the primary reason that Fidelity cannot support the Proposal.

Therefore, we urge the Division to withdraw the Proposal and reconsider its need after implementation of Reg BI.

Fidelity would be pleased to provide further information or respond to questions the Division may have about our views on the Proposal.

Thank you.



###

Fidelity does not provide legal or tax advice, and the information provided is general in nature and should not be considered legal or tax advice. Consult an attorney, tax professional, or other advisor regarding your specific legal or tax situation.

Views expressed are as of the date indicated, based on the information available at that time, and may change based on market or other conditions. Unless otherwise noted, the opinions provided are those of the speaker or author and not necessarily those of Fidelity Investments or its affiliates. Fidelity does not assume any duty to update any of the information.

**\$0.00 commission applies to online U.S. equity trades, exchange-traded funds (ETFs), and options (+ \$0.65 per contract fee) in a Fidelity retail account only for Fidelity Brokerage Services LLC retail clients. Sell orders are subject to an activity assessment fee (from \$0.01 to \$0.03 per \$1,000 of principal). There is an Options Regulatory Fee (from \$0.03 to \$0.05 per contract), which applies to both option buy and sell transactions. The fee is subject to change. Other exclusions and conditions may apply. See [Fidelity.com/commissions](https://www.fidelity.com/commissions) for details. Employee equity compensation transactions and accounts managed by advisors or intermediaries through Fidelity Clearing & Custody Solutions® are subject to different commission schedules.**

*Options trading entails significant risk and is not appropriate for all investors. Certain complex options strategies carry additional risk. Before trading options, please read [Characteristics and Risks of Standardized Options](#).<sup>†</sup> Supporting documentation for any claims, if applicable, will be furnished upon request.*

Fidelity now offers the Fidelity ZERO Total Market Index Fund (FZROX), Fidelity ZERO International Index Fund (FZILX), Fidelity ZERO Large Cap Index Fund (FNILX), and Fidelity ZERO Extended Market Index Fund (FZIPX) available to individual retail investors who purchase their shares through a Fidelity brokerage account.

Zero account minimums apply to retail brokerage accounts only. Account minimums may apply to certain account types (e.g., managed accounts).

**You could lose money by investing in a money market fund. An investment in a money market fund is not insured or guaranteed by the Federal Deposit Insurance Corporation or any other government agency. Before investing, always read a money market fund's prospectus for policies specific to that fund.**

You should know that money market funds have different characteristics than bank sweep products and savings accounts; read the fund's prospectus carefully. An important difference is that bank sweep products have FDIC protection, which guarantees principal and interest within limits. Consider each account type and product carefully, as there are differences in services and fees applicable to each type of account.

Fidelity Brokerage Services LLC, Member NYSE,  
SIPC 900 Salem Street, Smithfield, RI 02917