



November 20 2009

The Honorable Christopher Dodd
Chairman
Committee on Banking, Housing,
and Urban Affairs
United State Senate

The Honorable Richard Shelby
Ranking Member
Committee on Banking, Housing,
and Urban Affairs
United State Senate

Dear Chairman Dodd and Ranking Member Shelby,

We, the undersigned organizations, collectively represent approximately 500,000 life insurance agents and financial professionals across the United States who provide financial protection and savings relied upon by 75 million American families. We are writing to ask that you review and consider the enormously costly and counterproductive impact of Section 913 of the Committee Print of the Investor Protection Act, including reduced customer access and service, reduced financial protection of Americans, and loss of capital formation and jobs.

Section 913 would force life insurance agents who already are qualified as registered representatives and supervised by the SEC and FINRA to register as investment advisers -- and thereby take on more responsibilities, more expenses, and more liability. Section 913, if enacted, would force thousands of our members to limit the product choices available to their customers, the majority of whom are middle-market consumers who look to us for insurance and retirement products. After you have reviewed and considered the impact of the provision, we hope you will oppose it in its current form and support, instead, a serious review and study of the appropriate regulation of brokers, dealers, and investment advisers.

Section 913 would force virtually all broker-dealers, including life insurance agents who qualify as registered representatives of broker-dealers for purposes of offering variable and other investment products, to register as investment advisers. It is a radical departure from current law and has never been the subject of Committee hearings or significant analysis of its cost or impact on a host of financial services industries, product choices for consumers, or the broader economy. Regulations in this arena imposed on insurance agents in the United Kingdom have contributed to a decline in the agent population from 180,000 to 5,000 over the last two decades, decreasing access to critical financial products and services for middle-market consumers.

As we understand it, the provision is based upon a recommendation by the Obama administration that the SEC be given discretionary rulemaking authority to harmonize the obligations of investment advisers and brokers and dealers to their customers. That recommendation, in turn, was based upon a study by a private organization, the RAND Corporation, which found that, while the diversity in financial services providers has resulted in some investors "fail[ing] to distinguish brokers and dealers along the lines that federal regulations define [those terms] . . . investors express high levels of satisfaction with the services they receive from their own financial service providers."

Life insurance agents have an extremely difficult job in selling life insurance products, because people do not like to focus on financial needs related to their mortality. Customers do not pay a fee to insurance agents who write insurance for them, as they would pay a financial planner or asset manager. Instead, carriers pay agents commissions based on the sale of their products. This is an appropriate arrangement, since the insurance agent must apply the carrier's underwriting standards in the first instance, as well as develop a product that is suitable for the individual customer. The price paid by the customer for the product sold through an insurance agent is the same as it would be if the customer did not receive the agent's services and instead bought it online. Agents have a deep motivation to serve the customer well, because the customer will not keep the products in force, will not go back to the agents for future business or refer others to the agents unless the products sold are in the customer's interest.

The additional regulation required under Section 913 of the Committee's draft legislation is unwarranted. Customers are protected by agent training, rigorous regulatory oversight and synergy of interests. Life insurance agents undergo significant training by life insurance companies, must pass state insurance department testing for knowledge prior to licensing, and are subject to rigorous oversight by state insurance departments. Agents licensed as registered representatives to sell variable life insurance and investment products also must pass one or more FINRA examinations; are trained and carefully and regularly supervised by affiliated broker-dealers and are subject to detailed FINRA rules and frequent examination. There is no reason to impose another registration and regulatory statute – the Investment Advisers Act – on these insurance professionals, when it will not add protections for customers but will end up limiting their choices.

In light of the above, we urge that you oppose Section 913 of the Committee Print in its current form and support, instead, a serious review and study of the appropriate regulation of brokers, dealers, and investment advisers. The issues and stakes are too important to make decisions without this information. It is far more important that the issue be addressed correctly than with expediency.

Thank you for the opportunity to provide our comments on this important component of the legislation before the Committee. We look forward to continuing to work with you and your colleagues to ensure a positive legislative outcome.

Sincerely,

The Association for Advanced Life Underwriting
The National Association of Insurance and Financial Advisors
The National Association of Independent Life Brokerage Agencies

cc: Members of the Senate Committee on Banking, Housing and Urban Affairs

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The **Association for Advanced Life Underwriting** (AALU) is a professional trade association representing 2,000 life insurance agents and professionals nationwide, who have significant expertise and are industry leaders in helping individuals and businesses utilize life insurance in estate planning, charitable planning, business continuation planning, retirement planning, deferred compensation and employee benefit planning. The mission of AALU is to promote, preserve and protect advanced life insurance planning for the benefit of its members, their clients, the industry and the general public. AALU's website can be accessed at www.aalu.org.

NAIFA comprises more than 700 state and local associations representing the interests of approximately 200,000 agents and their associates nationwide. NAIFA members focus their practices on one or more of the following: life insurance and annuities, health insurance and employee benefits, multiline, and financial advising and investments. The Association's mission is to advocate for a positive legislative and regulatory environment, enhance business and professional skills, and promote the ethical conduct of its members. Visit NAIFA's website at www.naifa.org.

The **National Association of Independent Life Brokerage Agencies** (NAILBA) is the premiere insurance industry organization promoting financial security and consumer choice through the use of independent brokerage distribution. NAILBA member agencies represent 250,000 producers who deliver more than four billion dollars in first year life insurance premiums annually. For more information, visit www.nailba.org.