The Massachusetts Fiduciary Rule:

MYTHS VS FACTS

Center for Capital Markets Competitiveness

The Commonwealth of Massachusetts has recently proposed applying new standards of conduct to broker-dealers (BDs) and investment advisers that operate within the state. The Massachusetts effort is largely based upon the U.S. Department of Labor's 2016 "fiduciary" rule, which was subsequently thrown out by the courts. The Massachusetts rule directly conflicts with several aspects of Regulation Best Interest (Reg BI) recently adopted by the Securities and Exchange Commission (SEC). In addition to its troubling provisions that would limit choice and access to quality, affordable investment assistance for Massachusetts investors, the proposed rule would create conflicting standards at the federal and state level, which will reduce choice and raise costs for retail investors—especially small investors. The following graphic details why claims made in support of the Massachusetts rule are wrong.

MYTHS

FACTS

The Massachusetts regulation is necessary because the SEC's Regulation BI and interpretation regarding the duties of investment advisers do not provide adequate protections for investors.

Reg BI provides a uniform, robust set of protections for investors when relying on the services of investment professionals. It prohibits BDs from placing their own interests ahead of their clients and requires BDs to:

- **Mitigate or eliminate conflicts of interest**
- **Consider the costs associated with a recommendation**
- **Refrain from using titles such as "advisor" or "adviser"**
- **Disclose comprehensive information about the nature of their relationship, fees, conflicts, and other material facts**

Additionally, The SEC's recent interpretation of an investment adviser's standard of conduct – adopted at the same time as Reg BI – confirms the SEC's position that an investment adviser must serve the interests of their clients and never put their own interests ahead of a client.

MYTHS	FACTS
Businesses have long supported state-based insurance regulatory regimes, therefore they should be supportive of state securities regulators taking their own initiatives when it comes to standards of conducts for BDs and investment advisers.	**State-based insurance regulation has a long history in the United States, including affirmation by Congress under the McCarran-Ferguson Act. State-level fiduciary rules, however deal with the sale of financial services where there is a pre-existing, comprehensive federal regulatory scheme. While some states may disagree with the SEC on Reg BI, the repercussions of a patchwork of state fiduciary proposals would have major repercussions for investor access and choice that are not being properly evaluated or weighed. Investors will pay the price of undermining the strong, clear, and uniform national standard that Reg BI provides.**
The Massachusetts fiduciary rule will preserve commission-based business models for investors who prefer that option.	**The Massachusetts rule would effectively eliminate the brokerage model for state residents. Investors would be forced to transfer into fee-based accounts which in many cases could raise their cost of investing.**
State-level fiduciary rules will help increase investor protections across the country by raising the bar for investment advice.	**A patchwork of state regulation will create a regulatory 'race to the bottom' that increases costs, reduces investment choices, and diminishes the ability of individuals to receive sound investment advice. Many investors would be left on their own to make some of the most important financial decisions of their lives.**
Because the Massachusetts rule borrows in several respects from the Labor Department's 2016 fiduciary regulation, it offers much stronger protection than Reg BI.	**Before it was thrown out by the courts, several analyses demonstrated that the 2016 fiduciary rule inhibited choice for investors, particularly those with modest assets to invest.**

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