

August 6, 2018

Filed via email at [rule-comments@sec.gov](mailto:rule-comments@sec.gov).

Mr. Brent J. Fields  
Secretary  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549-1090  
Re: Proposed Regulation Best Interest  
File Number S7-07-18

Dear Secretary Fields:

The Committee on Investment of Employee Benefit Assets (CIEBA) appreciates the opportunity to provide comments to the U.S. Securities & Exchange Commission (SEC) on Proposed Regulation Best Interest (Regulation B.I.), which would establish a standard of conduct under the Securities Exchange Act of 1934 for broker-dealers and their associated persons when recommending a securities transaction or an investment strategy involving securities to a “retail customer.” CIEBA appreciates the SEC’s work on the proposed rule and, as discussed below, is supportive of Regulation B.I.

## **I. CIEBA**

CIEBA members are the chief investment officers of more than 100 of the Fortune 500 companies who individually manage and administer Employee Retirement Income Security Act (ERISA) - governed corporate retirement plan assets. CIEBA members voluntarily sponsor plans and manage over \$2 trillion of retirement assets on behalf of approximately 17 million participants, representing a very significant portion of the largest private defined benefit and defined contribution pension plans in the US.

As the largest organization of corporate pension investment officers, CIEBA represents the interests of employee benefit plan sponsors before legislators, Congress, regulators and the media. Since 1985, CIEBA has provided a nationally recognized forum and voice for corporate pension plan sponsors on investment and fiduciary issues.

As voluntary sponsors of this country’s largest defined benefit and defined contribution plans, CIEBA members have a strong commitment to the long-term health and viability of the retirement system, and as plan fiduciaries and investment professionals responsible for millions of 401(k) plan participants, we are committed to helping plan participants prepare for retirement.

## **II. CIEBA supports the best interest standard of care.**

The transition from a defined benefit plan system to a defined contribution plan system has shifted retirement planning responsibilities from plan sponsors to participants. Participants in most defined contribution plans today are generally responsible for deciding how much to contribute to their plans, how to invest those contributions, and what to do with their retirement assets when they retire or change jobs. Poor decisions can significantly reduce their retirement assets, while good decisions can significantly improve their retirement outcomes.

CIEBA believes that 401(k) plans are an increasingly important source of retirement income, but that investing is a highly complex subject, which may be beyond the scope of the average 401(k) participant. As a result, the average 401(k) participant needs safeguards from conflicted advice. Anyone advising participants about their 401(k) assets should be held to a best interest standard of care.

That is particularly true in the marketing of IRAs to 401(k) plan participants when they leave employment or, as is more frequently the case, change jobs. When 401(k) participants leave employment or change jobs and seek assistance in deciding what to do with their account balances, they may not fully understand the potential impact of conflicted advice on their investment alternatives. CIEBA believes that participants deserve thorough, prudent, and unbiased advice from all providers involved in the management of those assets, throughout the accumulation, rollover and distribution phases of retirement savings.

Given the foregoing, CIEBA strongly supports the “best interest” standard of conduct for broker-dealers as proposed by the SEC in Regulation B.I. The proposed standard will ensure that broker-dealers prioritize the interests of clients ahead of the broker-dealer’s. This concept is consistent with the longstanding principles of fair dealing governing the conduct of a broker-dealer’s client relationships.

## **III. CIEBA supports defining “retail customers” to include retirement plan participants.**

Proposed Regulation B.I. would apply in circumstances where a broker-dealer makes a recommendation to a “retail customer.” That term is defined as a person who receives a securities or investment strategy transaction recommendation from a broker-dealer and who “uses the recommendation primarily for personal, family or household purposes.” SEC expressed the view that recommendations to retail customers should include recommendations that relate to retirement, education and other savings.

As we interpret the proposed Regulation B.I., the definition of retail customer would apply to recommendations made directly to participants in employer-sponsored retirement plans. However, for the avoidance of doubt, we urge the SEC to clarify the definition. As discussed above, retirement plan participants in plans deserve the protections afforded by Regulation B.I. and the best interest standard. That is particularly true for participants in defined contribution plans, who are typically responsible for selecting from the multitude of investments available in their plans.

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CIEBA appreciates the opportunity to comment on proposed Regulation B.I. If you have questions or can be of further assistance, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'D Simmons', with a long horizontal line extending to the right.

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