Joseph E. Sweeney
President – Advice & Wealth Management,
Products and Service Delivery

Ameriprise Financial, Inc.
687 Ameriprise Financial Center
Minneapolis, MN 55474
Tel: [redacted]
Fax: [redacted]

Ameriprise Financial

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Brent J. Fields, Secretary Securities and Exchange Commission
100 F Street NE
Washington, D.C. 20549-1090

Comments submitted via Email to rule-comments@sec.gov

Re: File Number S7-07-18

Ameriprise Supports the SEC's Efforts to Put Clients First

Ameriprise Financial appreciates the opportunity to provide comments on the Securities and Exchange Commission's (the "Commission" or the "SEC") proposed Regulation Best Interest ("Proposed Reg BI") and Form CRS Relationship Summary ("Proposed Form CRS") (collectively, the "Proposals"). Ameriprise Financial supports the Proposals and believes that the Commission struck the correct balance of ensuring consumer protection while preserving client choice.

We share our perspective as a leader in financial planning with nearly $900 billion in assets under management and administration.[1] More than 2 million clients across the United States depend on our nearly 10,000 financial advisors to help navigate the road to retirement, and we've earned their trust through a proven track-record of success and integrity. Under the personalized care of their Ameriprise advisors, our clients have saved and invested billions of dollars to enhance their long-term financial security.

- Our financial advisors have a focus on comprehensive financial planning tailored to the unique needs and goals of each American investor.
    - Ameriprise Financial is a longstanding leader in financial planning and advice. We currently employ or associate with almost 10,000 dually-registered financial advisers, including 4,100 CERTIFIED FINANCIAL PLANNER™ professionals.
    - We serve retail clients and provide solutions for investors with moderately sized accounts as well as those who have more substantial savings.

[1] Ameriprise helped pioneer the financial planning process more than 30 years ago.

- Our firm also offers insurance and annuity products which provide important protection, growth and guaranteed lifetime income solutions to our clients.

- We also operate Columbia Threadneedle Investments, a leading global asset manager offering mutual funds, separate accounts, ETFs, and institutional asset management capabilities with nearly $500 billion in assets under management.

Ameriprise Financial supports the comment letters that have been filed by our trade association partners, including those by the Securities Industry and Financial Markets Association ("SIFMA"), American Council of Life Insurers ("ACLI"), the U.S. Chamber of Commerce (the "Chamber") and the Investment Company Institute ("ICI").

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I. We Support the SEC's Overall Framework Because It Establishes Clear Standards for Acting in the Client's Best Interest and Maintains Client Choice

We have long supported a client-centric standard of care for financial advice. The SEC's proposal codifies the care and transparency that should be expected by clients when receiving financial advice. By covering three key pillars - 1) clear new standards for broker dealers, 2) clarified existing standards for investment advisors and 3) a simple disclosure form that ensures clients understand the nature of their relationship as well as associated services and costs -- the SEC framework protects clients regardless of what type of relationship or account they have chosen.

We also support the SEC standards because they maintain choice for clients and tailor client-centric standards for the different types of accounts a client may choose depending on their individual needs. In practice, a single client may have several different types of accounts: a nonqualified brokerage account, an advisory account, an IRA, a small business account, a 401(k) plan and/or an annuity. Advice is holistic, and clients view all their assets as available for advice and protection, whether they are sending their children to college or saving for retirement. We have consistently advocated for effective and appropriate regulation that preserves access and choice. We've consistently advocated for choice in how clients receive advice, the range of

solutions to which they have access and how they compensate their advisors, while enhancing consumer protection across all their investments.

Ameriprise has long offered choice in how our clients work with us to achieve their long-term financial goals, depending on their circumstances, financial position, investment goals, and the level of advice they desire. Our firm is dually registered as a broker-dealer and as an investment adviser, and our advisors operate under the current standards of care applicable to each. Our advisors are held to a fiduciary standard under the Investment Advisers Act of 1940 (the "Advisers Act") when providing recommendations under advisory programs or when providing financial-planning advice. We are also overseen by the Financial Industry Regulatory Authority (FINRA) under the suitability standard for investment recommendations. We've established significant infrastructure to help ensure our advisors meet these standards, which is supplemented by comprehensive policies and procedures, and extensive and appropriate disclosures. Our clients are well served not only by the comprehensive financial advice and solutions we offer, but by our robust compliance infrastructure and overall financial strength.

Importantly, we believe that any regulatory or legislative approach should facilitate a holistic regulatory framework, and that the SEC is the appropriate regulator to take the lead in promulgating standards for financial advice. By setting these clear and comprehensive standards, the Department of Labor, as well as FINRA and the State securities and insurance regulators, should be able to ensure that any standards that they oversee relating to financial advice are not in conflict, and are consistent to the fullest extent possible.

II. The SEC's Proposed Best Interest Standard Enhances Consumer Protection

The current regulatory framework overseeing the financial services market is strong, robust and working to protect investors. The SEC's Proposed Reg BI builds upon that strong foundation to advance consumer protection and meet the expectations of the American public: one which requires that financial advisors and financial services firms operate under an explicit federal obligation to act in a client's best interest, regardless of whether the account is qualified or non-qualified and whether recommendations are made during asset accumulation or in the spend-down phase in retirement. Proposed Reg BI codifies standards for three key components of client protection that will ensure consistency across the industry for all broker dealers providing advice to clients: disclosure, duty of care and mitigating conflicts of interest.

Today, financial institutions are subject to extensive regulation and oversight and are held to high industry standards. For instance, broker-dealers and registered investment advisers (RIAs) are regulated by SEC and FINRA rules; insurance companies are regulated by state insurance regulations for non-registered products and the SEC and FINRA for registered products; banks are regulated by federal banking laws and/or State trust laws, and State regulators can and do regulate promoters of securities under State blue sky laws. The Internal Revenue Service is charged with regulating non-bank IRA trustees and enforcing the Internal Revenue Code's prohibited transaction regime. In other words, the providers of investment

products and services are heavily regulated.

This oversight includes rigorous registration, testing, and continuing education requirements, as well as publicly available disclosures about the financial professional's background and conduct.

While we agree with Commissioner Pierce's comment that, "Although 'suitability' has become something of an unspeakable word, it is a standard that has served investors well,"[2] we are pleased that the SEC has taken a marked step forward in consumer protection by layering atop the suitability standard the clear requirement to "act in the best interest of the retail customer…without placing the financial or other interest" of the broker-dealer "ahead of the retail customer."[3]

This standard is strong and clear and shows knowledge of the market and what consumers expect. In that respect, it gets right what the Department of Labor's "without regard" standard got wrong by failing to acknowledge that certain conflicts of interest are inherent in any "principal-agent relationship." In contrast, the SEC's standard not only acknowledges these inherent conflicts but does so while mitigating the impact of those conflicts on the consumer – all without failing to recognize that individual's desire and need for a diverse range of products and services, and flexibility in choosing how to pay for such products and services.

Furthermore, the duty of loyalty contained within the Department of Labor's best interest exemption included the problematic "without regard to" and "differential compensation" conditions. These conditions put unnecessary pressure on commission-based products and services which serve investors with modest holdings or long term buy and hold objectives. The vague nature of the standards would have been subject to litigation abuse with no client benefit. The SEC's proposed standard fosters "impartial conduct" without reducing choice and access. Further, by leaving the standard principles based and not defining "best interest," the SEC is ensuring any analysis of whether a recommendation was in the best interest will be evaluated on the facts and circumstances of the situation, and therefore, a client can be assured that he or she will receive a fair evaluation under a heightened standard to the extent there are any concerns with a recommendation or set of recommendations. Increasing investor confidence with an additional layer of protection, one which firms are eager to embrace, is a win for clients and a sure step towards increased financial security.

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[2] Statement at the Open Meeting on Standards of Conduct for Investment Professionals, Commissioner Hester M. Pierce, available at: https://www.sec.gov/news/public-statement/statement-peirce-041818.

[3] 83 Fed. Reg. 21681

III. Commission Based Products and Services are Key to Main Street's Financial Security

We appreciate the SEC making it clear that "the proposed rule is intended to focus the obligation to each particular instance when a recommendation is made to a retail customer and whether the broker-dealer satisfied its best interest obligation (i.e., was in compliance with the specific Disclosure, Care, and Conflict of Interest Obligations) at the time of the recommendation." And that "it is not intended to change the varied advice relationships that currently exist between a broker-dealer and its retail customers, ranging from one-time, episodic or more frequent advice, consistent with the goal of enhancing investor protection while preserving retail customer access to and choice in advice relationships."[4]

We share the SEC's goal of enhancing investor protection while preserving retail customer access to and choice in advice relationships. Fundamentally, it is vital that brokerage and other commission-based offerings remain available for investors who cannot afford a managed or fee only account or will not suit buy and hold investors.

We are aware that certain commenters believe that a best interest standard for commission-based offerings, like a brokerage account, should include a mandate to monitor ongoing activity in that account. We disagree with this perspective and believe that this type of mandate would upend the brokerage model requiring resources that would make it too expensive for modest investors to afford. Furthermore, frequent trading of account assets, with the attendant costs and potential tax consequences, will often work against the thoughtful, long-term buy-and-hold wealth creation many investors desire.[5] Given that multiple firms responded to the Department of Labor's efforts by making the decision to stop offering financial-advisor-supported commission-based accounts, we believe any regulatory framework that is not business-model neutral will prevent millions of Americans from having access to a financial advisor.

The negative impact of failing to provide a clear path forward for commission-based accounts for investors is material:

- Currently, 95% of households saving for retirement have a brokerage account[6]and 98% of investor accounts containing $25,000 in assets or less in their IRAs are in brokerage

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[4] 83 Fed. Reg. 21594

[5] It is important to note that while the full-service brokerage model does not customarily include ongoing monitoring of investments, full service brokers, like Ameriprise Financial Services, Inc., often do provide ongoing platform services, including annual due diligence reviews of investments on the platform which eliminates high-fee, low performing funds, training of financial advisors and compliance and shareholder services.

[6]Oliver Wyman, *Standard of Care Harmonization: Impact Assessment for SEC,* October 2010, 4, available at: http://www.sec.gov/comments/4-606/4606-2824.pdf

relationships.[7] This makes commission-based accounts an important means for middle class investors to achieve financial security.

- The value of the guidance provided to these investors is meaningful. Americans who receive advice have a minimum of 25% more assets than non-advised individuals.[8] In the case of individuals aged 35-54 years making less than $100,000 per year in annual income, advised individuals had 51% more assets than those without a financial advisor.[9]

- Households lacking a financial advisor and with below-average financial literacy stand to lose 50 basis points annually in investment returns compared to their advised counterparts.[10]

- Research published in the United Kingdom in July 2017 demonstrates in clear terms how the value of working with an advisor translates into substantial gains in financial security for individual retirement savers.[11] This robust study uses a multi-year longitudinal survey of the same households to measure the value of advice. Consistent with other research, this study confirms that there is a significant positive impact on retirement savings when advice is provided. What is even more striking is that the proportionate impact is largest for those with more modest incomes – a fact that is particularly relevant when considering the need to maintain access to commission-based accounts. The study found that those who had received advice had more pension income than their peers:

    - The 'affluent but advised' group earn £880 – or 16% - more per year than the equivalent non-advised group
    - The 'just getting by but advised' group earn £713 – or 19% - more per year than the equivalent non-advised group
    - The report found that 9 in 10 people are satisfied with the advice received, with the clear majority deciding to go with their adviser's recommendation.

- Financial advisors are clearly helping Americans save more for retirement. A 2014 Consumer Survey by the LIMRA Secure Retirement Institute found that households that use a financial advisor are twice as likely as non-advised households to have $100,000 or

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[7] Oliver Wyman, *Assessment of the impact of the Department of Labor's proposed "fiduciary" definition rule on IRA consumers,* April 12, 2011, 2.
[8] Oliver Wyman, *The role of financial advisors in the US retirement market,* July 10, 2015, 6.
[9] Wyman, *The role of financial advisors in the US retirement market,* July 10, 2015, 6.
[10] Von Gaudecker, Hans-Martin, *How Does Household Portfolio Diversification Vary with Financial Literacy and Financial Advice?* The Journal of Finance 70.2, April 2015, 489-507.
[11] Brancati, Franklin and Beach, International Longevity Centre – UK, *The Value of Financial Advice*, July 2017, available at: http://www.ilcuk.org.uk/images/uploads/publication-pdfs/ILC-UK_The_Value_of_Financial_Advice.pdf

more in retirement savings, and three times as likely to have retirement savings greater than $250,000.[12]

- Access to financial advisors helps keep retirement assets available for retirement. A Government Accountability Office ("GAO") report found that cash outs at job change lead to a loss of $74 billion annually from the retirement system.[13] Employees are less likely to take cash withdrawals of their retirement savings if they discuss their distribution options with a call center or broker upon job termination.[14]

- Financial advisors help Americans sustain a secure retirement. Those households that use an advisor are also managing risk using financial products that provide security and guarantees. For example, households that use a financial advisor are more than three times as likely to own an individual annuity compared to households without a financial advisor, 26% of advised households versus 7% of unadvised households.[15] These annuities provide critical access to guaranteed lifetime income. The same holds true for individual life insurance (51% of advised households vs. 29% of unadvised households), individual long-term care insurance (16% of advised households versus 6% of unadvised households), and individual disability insurance (9% of advised households versus 7% of unadvised households).[16] These individuals are taking personal responsibility in seeking the assistance of a knowledgeable advisor. Without access to a financial advisor, millions of households would likely forego these products and their savings for retirement could quickly evaporate at a time when our nation's social insurance programs are already undergoing significant stress due to the aging of the population.[17] The cost of more unprepared Americans on the nation's social insurance programs could be severe.

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[12] LIMRA Secure Retirement Institute, *Matters of Fact: Consumers, Advisors, and Retirement Decisions (and Results),* May 2015, 3, available at: https://static1.squarespace.com/static/555b3847e4b027af11387581/t/55a6727ee4b0f677695023cd/1436971646327/LIMRA-Facts-about-retirement-decisions.pdf

[13] U.S. Government Accountability Office, *401(k) Plans; Policy Changes Could Reduce the Long-term Effects of Leakage on Workers' Retirement Savings.* GAO-09-715, September 2009, 17, available at: http://www.gao.gov/assets/300/294520.pdf

[14] Quantria Strategies, LLC, *Access To Call Centers And Broker Dealers And Their Effects On Retirement Savings,* 2014, 1, available at: http://quantria.com/DistributionStudy_Quantria_4-1-14_final_pm.pdf

[15] Strategic Business Insights, 2016-17 MacroMonitor.

[16] Ibid.

[17] Retirement investors need guidance to understand whether these products would help them achieve greater retirement security. Without this guidance, retirement investors will be hesitant to utilize annuities. Retirement savers may not understand or consider these types of products and how they can address market volatility risk or longevity risk. A 2017 survey from Greenwald Associates found that about six in 10 Americans believe that financial advisors have a responsibility to present products that offer guaranteed lifetime income as part of their planning. See Greenwald Associates, 3rd Annual Guaranteed Lifetime Income Survey, March 2017.

While managed accounts are often an appropriate choice for certain investors, these accounts generally have minimums and are unsuitable for "buy-and-hold" clients who don't trade frequently (since these clients would be unnecessarily charged an ongoing fee when they do not have a need for significant transactions or ongoing service).[18] Any regulatory framework that fails to support commission-based products will also necessarily discourage companies from selling annuities - which would decrease opportunities for guaranteed retirement income, guaranteed accumulation benefits, enhanced death benefits - and increase the overall risk of Americans outliving their retirement assets.

We believe that those investors who don't want, can't afford or shouldn't be in a managed account should not be left to fend for themselves. When the market experiences volatility, clients want to be able to look to a financial advisor for guidance. Our financial advisors are focused on providing comprehensive financial advice over a client's lifetime. Financial needs change over time as do the multiple products and solutions to which our clients have access to help them reach their goals. Access to personalized guidance and advice is essential both during the years when individuals are accumulating wealth and as they determine the best approach to converting their savings to a reliable income stream in retirement. In addition, this personalized guidance and advice is most needed in market downturns when keeping clients focused on their investment goals and investment plan is critical to achieving those goals.

IV. Proposed Regulation Best Interest: Areas of Improvement and Clarification

We agree with the SEC that a guiding principal for Proposed Reg BI should be on "how best to bridge any gaps between what retail investors reasonably expect from their investment professional and what [the SEC's] laws and regulations require, while ensuring that investor access and investor choice are preserved."[19] We believe that the Proposals are that important bridge and we support the SEC's efforts to finalize its standard. Without intent to diminish that support, we do note that there a few areas that could be revised to not place inadvertent pressure on commission-based products and services to the detriment of investors.

A. The Proposed Definition of "Material Conflicts of Interest" Should Follow Well Known and Understood Principles

Proposed Reg BI includes the following interpretation of the phrase "material conflicts of

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[18] In fact, the SEC made fee selection and "reverse churning" one of their exam priorities in 2015. Securities and Exchange Commission, *Examination Priorities for 2015,* 2 available at: http://www.sec.gov/about/offices/ocie/national-examination-program-priorities-2015.pdf

[19]Chairman Jay Clayton, Statement at the Open Meeting on Standards of Conduct for Investment Professionals, April 18, 2018, which can be found at: https://www.sec.gov/news/public-statement/clayton-statement-open-meeting-iabd-041818

interest":

> a conflict of interest that a reasonable person would expect might incline a broker-dealer – consciously or unconsciously – to make a recommendation that is not disinterested.[20]

While we recognize that the SEC has proposed using the term "consciously or unconsciously" to align Proposed Reg BI with the standard for identifying conflicts of interest under the Advisers Act,[21] we believe that such use would have negative consequences in the context of a broker-dealer's recommendation. We would urge the SEC to remove "consciously or unconsciously" and state that a "material conflict of interest" is a "conflict of interest that a reasonable person might conclude has the potential to influence the recommendation." Doing so removes confusion around what it means to "unconsciously" make an interested recommendation – an amorphous concept which does not lend itself to developing clear policies and procedures and training advisors to understand and adhere to them.

This is an important distinction -- for the proposal to be effective, companies must be able to develop policies and procedures which are designed around meeting the requirements of Regulation Best Interest in such a way as to be understandable and easily implemented by financial advisors serving clients. For instance, we were pleased that both Proposed Reg BI and the Proposed Form CRS draw a bright line between advisory accounts and commission-based brokerage accounts. Tying the standard of care to the type of account the client has opened makes it possible for dual registered broker-dealers to develop appropriate compliance policies, supervision and oversight of its dually registered financial advisors.

We would note that the Commission itself referenced the 2013 FINRA Conflicts of Interest Report as familiar to broker-dealers[22] and we believe you could take it to its logical conclusion and align the Regulation Best Interest definition of "Material Conflicts of Interest" with Appendix III of the Report ("Summary of Conflicts of Interest Identified by Firms"). Appendix III summarizes the most significant or material "general and business-line" conflicts of interest firms face in their business. Like the SEC's Proposed Reg BI with its appropriate use of "facts and circumstances" to determine whether a financial advisor or firm acted in a client's best interest, FINRA noted that "in some cases, and depending on the facts and circumstances, some of the conflicts…may rise to the level of rule violations."[23]

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[20] 83 Fed. Reg. 21602

[21] Ibid. (See footnote 198).

[22] Ibid. at 21578. "FINRA has similarly focused on the potential risks to broker-dealers and to retail customers presented by broker-dealer conflicts, and impact on brokerage recommendations, as reflected in guidance addressing and highlighting circumstances in which various broker-dealer conflicts of interest may create incentives that are contrary to the interest of retail customers. on conflicts of interest in the broker-dealer industry to highlight effective conflicts management practices. Most notably, in 2013, FINRA published a report on conflicts of interest in the broker-dealer industry to highlight effective conflicts management practices."

[23] See Appendix III, FINRA Report on Conflicts of Interest (Oct. 2013), *available at* https://www.finra.org/sites/default/files/Industry/p359971.pdf.

Use of Appendix III as a guideline for "material conflicts of interest" has the advantage of both being guidance firms have historically referenced in forming their own conflicts of interest management practices as well as clarity as to what constitutes a material conflict.

B. Management of Material Financial Conflicts of Interest Should be Clarified to Preserve Choice and Access

We appreciate that the SEC has indicated that common financial incentive structures and offerings for commission based accounts, like brokerage accounts, would not be "per se" prohibited by Proposed Reg BI.[24] However, we believe it puts unnecessary pressure on brokerage offerings with no corresponding client gain to suggest certain mitigation strategies that cast doubt on valuable, effective products and services that serve modest investors. For example, the SEC indicates that firms should consider incorporating certain practices in their policies and procedures to promote compliance with Proposed Reg BI, including "minimizing compensation incentives for employees to favor one type of product over another, proprietary or preferred provider products, or comparable products sold on a principal basis – for example, establishing differential compensation criteria based on neutral factors (e.g., the time and complexity of the work involved)."[25]

Another suggested mitigation approach includes, "eliminating compensation incentives within comparable product lines (e.g., one mutual fund over a comparable fund) by, for example,

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[24] 83 Fed. Reg. 21587. "Specifically, as further clarification, proposed Regulation Best Interest would not *per se* prohibit a broker-dealer from transactions involving conflicts of interest, such as the following:

- Charging commissions or other transaction-based fees;
- Receiving or providing differential compensation based on the product sold;
- Receiving third-party compensation;
- Recommending proprietary products, products of affiliates or a limited range of products;
- Recommending a security underwritten by the broker-dealer or a broker-dealer affiliate, including initial public offerings ("IPOs");
- Recommending a transaction to be executed in a principal capacity;
- Recommending complex products;
- Allocating trades and research, including allocating investment opportunities (e.g., IPO allocations or proprietary research or advice) among different types of customers and between retail customers and the broker-dealer's own account;
- Considering cost to the broker-dealer of effecting the transaction or strategy on behalf of the customer (for example, the effort or cost of buying or selling an illiquid security); or
- Accepting a retail customer's order that is contrary to the broker-dealer's recommendations.

While these practices would not be *per se* prohibited by Regulation Best Interest, we are also not saying that these practices are *per se* consistent with Regulation Best Interest or other obligations under the federal securities laws. Rather, these practices, which generally involve conflicts of interest between the broker-dealer and the retail customer, would be permissible under Regulation Best Interest only to the extent that the broker-dealer satisfies the specific requirements of Regulation Best Interest."

[25] 83 Fed. Reg. 21621

capping the credit that a registered representative may receive across comparable mutual funds or other comparable products across providers."[26]

And while examples showing the SEC's thinking on financial incentives is always helpful, we believe these specific examples create unnecessary risk for broker-dealers providing a diverse range of products and services to meet unique client needs.

These examples infer an infinite spectrum of "options" for broker-dealers to "mitigate" material conflicts of interest associated with financial incentives for common products such as mutual funds and variable annuities. Whether a firm has chosen the "correct" option will always be second guessed by a fact finder leaving the broker-dealer to question whether it makes sense to bear the risk of offering such products at all or to all clients rather than a subset of its clients.

For example, one fact finder could determine that a firm should have offered only one share class to "eliminate compensation incentives" for "one mutual fund over a comparable mutual fund" since it would be impossible for a firm to "prove" that an active fund was more complex or took more time to explain (so called "neutral factors") over an index fund by any one financial advisor for any one client. And in fact, some commenters on the Department of Labor's late rule argued that every firm should offer a broker-controlled share class like a "T-share" or "clean-share."

We do not believe it is in clients' best interests for the SEC to, even inadvertently, institutionalize a preference for some investments over others by putting its thumb on the scale with such unworkable concepts as "neutral factors." The clean share is not *de facto* less expensive for investors. Early commentary from third parties inaccurately stated that these shares compare favorably to front-loaded A-shares. However, that is not the case as the transaction costs for these shares will be determined by the broker-dealer and could likely be subject to a transaction fee at both the point of sale as well as at the point of distribution as is common for other securities where brokers set the commission. Other existing features of A-shares would also be dispensed with, including rights of accumulation and exchange rights which can result in significant cost savings for retirement investors.

We urge the SEC to consider the impact and unintended consequences of a move to something like inadvertently favoring clean shares would have on existing investors. Firms will not want to continue to offer existing share classes for the funds that offer clean shares. Therefore, those share classes will be closed to new contributions on the firms' platforms and moved to the new share class or existing shares will be maintained in a separate account that is only used as a holding account with no advice. Many clients have already paid loads to acquire those shares and will no longer receive the value they paid for.

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[26] Ibid.

Considering its extensive comments on the benefits of brokerage and desire to have a business-model neutral standard, we believe it was the SEC's intent to make clear that customary compensation practices, like varying commissions across and within diverse products, are permitted under the Proposed Reg BI. However, we are concerned that these examples muddy the water of that intent.

We request the SEC make clear that differential compensation for diverse products aligns with Proposed Reg BI and that there are a range of permissible methods to mitigate this conflict including enhanced supervision and surveillance of products that pay higher commissions or by removing commission outliers within a product category. We believe that advisors can better serve their clients if they have more choices available including multiple share classes for mutual funds and multiple product types including annuities, mutual funds, ETFs and alternatives. Ultimately, whether a recommendation is in a client's best interest for any product or service, regardless of whether it is affiliated or unaffiliated, active or passive, provides guaranteed income, is complex or otherwise, will be determined by the facts and circumstances. A clear statement that Proposed Reg BI does not require broker-dealers to charge the same commission rates for different product categories or conduct time and complexity studies as envisioned by the Department of Labor would likely minimize the uncertainty as to the permissibility of recommending diverse products with varying commissions. This approach will ease potential concerns that could limit choice and is consistent with the intent of the legislative approach taken by the U.S. Congress under the Dodd-Frank Act of 2010 ("Dodd-Frank").[27]

We understand that the SEC is concerned about sales contests that may create incentives for associated persons to recommend an investment product regardless of whether the recommendation is in the client's best interest. We believe such concerns around incentives do not exist with respect to programs that reward asset growth or asset flows, or recruitment bonuses tied to assets under management or revenue growth because these programs do not give associated persons an incentive to recommend specific securities that may not be consistent with a customer's best interest. Accordingly, we ask that the SEC confirm that programs that recognize asset growth and the other areas set forth above generally do not raise concerns regarding incentives.

For example, we have bonuses for financial advisors who engage in holistic financial planning with clients, and we see no reason such a program would incent inappropriate behavior. Advisors who gather more assets in the right way should be rewarded for building a scalable business that serves more clients and helps those clients achieve financial security.

Again, given that Proposed Reg BI requires financial advisors to act in a client's best interests, we do not believe these specific examples are necessary or add any extra level of protection for investors. We, like other firms, already maintain policies, procedures and processes to review compensation structures and ensure that they do not incent inappropriate

[27] See Pub. Law 111-203, H.R. 4173.

behavior.

We are also particularly concerned by the SEC's example of how broker-dealers might eliminate material conflicts of interest in the sale of affiliated mutual funds by "crediting fund advisory fees against other broker-dealer charges—thus effectively eliminating the material conflict of interest."[28] This approach is not commercially viable, and therefore expressly contradicts statements made by the SEC elsewhere in Proposed Reg BI and Section 913 of Dodd-Frank that a broker-dealer may continue to offer proprietary products. Accordingly, we ask the SEC to retract this example in any final adopting release.

Finally, we request that the SEC make it clear that platform design, or what a firm offers on its "shelf" not be subject to Regulation Best Interest at all if adequately disclosed. In other words, a broker-dealer should not run the risk that if it decides to offer only mutual funds or only affiliated products or certain share classes that a fact finder will try to determine, in hindsight, that a "better design" was in the client's best interest.

V. We Support Enhancements to the Legal Obligations of Investment Advisers

Ameriprise supports efforts to establish additional protections applicable to RIAs who work with retail customers. The SEC has asked for comments on whether it should develop a formal proposal to enhance standards that govern investment advisors. The Proposals seek comment on the following discrete areas: (1) federal licensing and continuing education, (2) provision of account statements and (3) financial responsibility.

The investment advisory regulatory framework has evolved significantly with some advisors migrating from a broker-dealer framework to one that relies heavily on investment advisory practices. This transition has not always reflected the needs of retail clients who are absorbed in a setting that was designed for institutional-based clients. These clients tend to have more assets to invest since RIAs often establish account minimums to avoid working with clients with lower available assets and may be more sophisticated with additional needs being met by tax advisers and legal advisers. However, there is still significant overlap of clients who may work with a broker-dealer/dual-registrant. In addition, advice is also being offered to retail clients through digital services, *i.e.*, "robo-advice" which also should be subject to standards that apply when advice or recommendations are being provided in a more personalized way.

Ameriprise encourages the SEC to require investment advisors who provide individualized investment advice to retail clients to show financial capability and to undertake and document continuing-education requirements. These two elements would address substantial inconsistencies across the regulatory framework and deliver tangible benefits to investors who work with investment advisors. Industry models already exist as a starting point for these

[28] 83 Fed. Reg. 21619

requirements. FINRA Rule 4360[29] establishes requirements for securities professionals to obtain fidelity bonding coverage. The framework of the fidelity bonding requirement does not need to be based upon a calculation of net capital or other capital assessment. However, we believe a formula for investment advisors working with the retail market would be a benefit to investors and is achievable. Making this a requirement for all firms operating as an RIA would establish at least some minimum threshold for firms and help protect investors from some losses that they are currently subject to.

With an appropriate level of insurance to protect clients from misconduct, we do not believe capital requirements for investment advisers is necessary or appropriate.

In addition, continuing education should be a requirement of RIA firms providing individualized investment advice directly to their retail clients. Since 1994, securities professionals working for brokerage firms, whether in home offices or in the field have been required to participate in continuing-education.[30] FINRA rule 1250 establishes standards for uniform continuing education as well as other requirements that must be met by firms and financial professionals to maintain their license.

Lastly, given the momentum in proposing a best interest standard of care for broker-dealers and potential enhancements to the legal obligations for retail investment advisors, it is vital that the SEC close the gap between the regulatory oversight and requirements expected of introducing broker-dealers and the custodians that perform many of the same services (e.g., product due diligence, platform design, clearing) for the independent RIAs. This gap has created an unlevel regulatory environment contrary to the best interest of clients where independent RIAs are not consistently and uniformly subjected to the same level of oversight that FINRA, SEC and state securities agencies provide for introducing broker-dealers. RIA custodians and independent RIAs do not disclose and mitigate material conflicts of interest related to financial incentives in as robust a manner as introducing broker-dealers. We believe that any requirements to disclose or mitigate conflicts related to platform design or receipt of indirect compensation should be equally applicable to custodian broker-dealers as to introducing firms to remain truly business model neutral.

VI. Proposed Form CRS Should Give Firms Flexibility to Streamline Their Disclosure

We believe disclosure should be simple, useful and meaningful to clients. Ameriprise supports providing a summary form to prospective clients and existing clients. However, we believe that the Proposed Form CRS would be more effective if the SEC streamlines the requirements by focusing on a smaller number of essential elements that must be included in the

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[29]See http://finra.complinet.com/en/display/display_main.html?rbid=2403&element_id=10018

[30] See NASD Rule Proposal 94-59 available at: http://finra.complinet.com/en/display/display_main.html?rbid=2403&element_id=1474

document while providing more flexibility to firms in both the language and the form of the document. We understand that Proposed Form CRS is not intended to replace the more comprehensive information that is routinely disclosed to clients. Rather, the purpose of the new disclosure is to help educate prospective clients about the standard of conduct that applies to the relationship due to the potential for confusion that may arise. Proposed Form CRS should use fewer words but should explicitly provide flexibility for firms to use comparisons in a table format or rely on a narrative description.

We request that the SEC permit firms to rely on one document to achieve the disclosure requirements. As a dual-registrant, relying on one document is preferable to us, but we believe it would be appropriate for the SEC to grant flexibility even on this point so long as a firm can achieve the two primary goals of the disclosure:

- Compare brokerage and advisory accounts, and
- Summarize the actual client relationship, whether brokerage or advisory.

In our case, a significant number of clients may have both types of accounts with their advisor and the firm. We believe the SEC proposal is tilted toward an "either/or" mentality and that is not practical nor is what is necessarily best for the client.

In addition, we request that the SEC specifically provide flexibility for firms to include other types of services as part of the disclosure. One type of service that stands out as missing entirely from all three documents is the provision of financial planning services.

At Ameriprise Financial, our advisors are focused on providing comprehensive financial advice over a client's lifetime. A holistic financial planning framework can help individuals meet two critical financial objectives for retirement: generating sufficient income and preserving financial assets. We offer broad-based financial planning through a written plan for a negotiated fee based on the complexity of a client's situation. We do this as part of an advisory relationship and subject to a fiduciary duty under the Advisers Act. A financial plan offered through Ameriprise Financial is a holistic plan that focuses on a goal like retirement or a set of goals like buying a house, saving for college, etc. Our financial advisors help clients define their goals, develop a plan to achieve those goals and then track the client's progress toward those goals.

While we appreciate that the broad-based financial planning recommendations our financial advisors make as part of a financial plan are subject to the fiduciary standard of the Advisers Act and therefore an ongoing duty to track progress against planning objectives, most of our financial planning clients choose to implement their financial plans by opening a brokerage or advisory account with us or by purchasing commission-based products that fit their needs. Security-specific recommendations made within these accounts or related to commission-based products such as annuities would then be governed by the standard of care applicable for that type of account (fiduciary under the Advisers Act for advisory accounts and Proposed Reg BI's best interest standard for brokerage accounts and commission-based products). We believe

that this is consistent with spirit and intent of Proposed Reg BI and would appreciate your confirmation of this fact along with permitting the ability to note as such in Proposed Form CRS.

It is critical that firms have bright lines as to which standard of care applies to tailor compliance, supervision, oversight and surveillance efforts accordingly. Further, if clients receive financial planning recommendations from their financial advisor or registered representative, they should know what standard would apply to those recommendations.

Additionally, firms should retain the flexibility to simplify, focus and layer – and thereby shorten – their Proposed Form CRS disclosures. We would request that the SEC avoid dictating the precise wording for the form, but instead, simply articulate the primary topic headings and content to be communicated, allowing flexibility to draft firm-specific summary disclosure.

Finally, we request that the SEC eliminate in its entirety, the key questions to ask section of the Proposed Form CRS. Textual, descriptive and narrative disclosures are often more effective, accurate and less intimidating than formulaic calculations, and we appreciate that the SEC's Proposed Form CRS requirements and mock-ups follow these principles. We believe these questions would divert from these principles and introduce challenges for compliance purposes. These questions, while helpful for consumer education, are frequently the topic of the plentiful consumer education that is already provided by firms, non-profits, and the SEC itself.

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We appreciate the opportunity to submit a comment letter. Thank you for considering our comments. We look forward to providing you with additional input and perspective as this process continues.

Sincerely,

Joseph E. Sweeney
President – Advice & Wealth Management Products and Service Delivery
Ameriprise Financial Services, Inc.