Published on *The National Law Review* https://natlawreview.com

The SJC Shocks Financial Services Industry by Taking Victory Away from Robinhood and Giving it to the Secretary of State

Article By:

Pete S. Michaels

Michael E. Pastore

Edmund P. Daley

In a widely anticipated decision, the Massachusetts Supreme Judicial Court unanimously upheld the Massachusetts Fiduciary Duty Rule, which imposes a fiduciary duty standard on Massachusetts broker-dealers. The high Court's ruling reversed a 2022 trial court decision in favor of Robinhood Financial LLC ("Robinhood"), finding that the Secretary of the Commonwealth ("Secretary") did not have the authority to adopt the rule. See our discussion of the trial court's decision here. As a result of the SJC's ruling, it is now the law of the land (at least in Massachusetts) that broker-dealers are held to the same fiduciary duty standard as investment advisers.

The issue before the Court was whether the Secretary overstepped his authority under the Massachusetts Uniform Securities Act ("MUSA") by enacting the Fiduciary Duty Rule. The Court began its analysis by focusing on the evolving regulatory framework governing broker-dealers and investment advisers, and the different duties of care owed to their respective clients. In recent years, broker-dealers have expanded the types of services they provide to their customers, blurring the once clear line dividing the services provided by a broker-dealer from the services provided by an investment adviser. In response to the confusion this blurring of lines caused, in 2019 the United States Securities and Exchange Commission ("SEC") implemented Regulation Best Interest ("Reg BI"), which created a "best interest" standard of conduct for broker-dealers. In adopting Reg BI, the SEC explicitly rejected applying a fiduciary duty standard – the standard of care applied to investment advisers – to broker-dealers, noting that "it is not appropriately tailored to the structure and characteristics of the broker-dealer business model . . . and would not take into account, and build upon, existing obligations that apply to broker-dealers."

In 2020, Secretary Galvin, an outspoken critic of Reg BI for not going far enough to protect investors, proposed applying the fiduciary duty standard of care to broker-dealers. After a period of public comment and study, Secretary Galvin promulgated the Fiduciary Duty Rule, which applies the same fiduciary duty standard of care to broker-dealers and investment advisers. We have been tracking Secretary Galvin's enforcement of the Fiduciary Duty Rule since it was enacted.

With that history in perspective, the SJC addressed Robinhood’s primary argument: issuance of the Fiduciary Duty Rule exceeded the Secretary’s authority under MUSA because the rule upsets the long-standing regulatory framework differentiating between broker-dealers and investment advisers. The SJC rejected this argument, emphasizing the broad authority the MUSA confers to the Secretary to establish regulations “necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of [MUSA].” G. L. c. 110A, § 412 (b). In short, the SJC concluded that Secretary Galvin was well within his authority under the MUSA to enact the Fiduciary Duty Rule, particularly where the Secretary determined that the changes in the financial services industry required changes in the laws protecting Massachusetts investors.

The Court then worked through Robinhood’s other arguments with little fanfare. Specifically, the Court rejected Robinhood’s argument that MUSA, as enacted, established an industry standard of care that treated broker-dealers different than investment advisers, which conflicted with the Fiduciary Duty Rule. The Court found that the industry standard had changed and the Secretary permissibly adopted the standards of care to meet these “new-age broker-dealers.” Similarly, the Court rejected Robinhood’s argument the Fiduciary Duty Rule abrogates the fact-specific test for whether a broker-dealer is a fiduciary under Massachusetts common law because the Fiduciary Duty Rule was coextensive with the common law, not contrary to it.

Finally, the Court considered Robinhood’s argument that Reg BI set a ceiling for the standard of care for a broker-dealer, thus preempting the Massachusetts Fiduciary Duty Rule. Describing the federal and state efforts to regulate the financial services industry as a “complementary administrative framework,” the Court rejected Robinhood’s argument that Reg BI preempts the Massachusetts Fiduciary Duty Rule. Furthermore, the SJC concluded that Reg BI imposed a floor, not a ceiling, on the standard of care owed by broker-dealers.

We will be closely monitoring the industry response as it grapples with the reality of this decision.

©1994-2025 Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. All Rights Reserved.

National Law Review, Volume XIII, Number 241

Source URL:https://natlawreview.com/article/sjc-shocks-financial-services-industry-taking-victory-away-robinhood-and-giving-it