



Janet T. Mills
Governor

STATE OF MAINE
DEPARTMENT OF PROFESSIONAL & FINANCIAL REGULATION
OFFICE OF SECURITIES



Joan F. Cohen
Commissioner

March 14, 2025

The Honorable Donna Bailey, Senate Chair
The Honorable Lori Gramlich, House Chair
Joint Standing Committee on Health Coverage, Insurance, and Financial Services
100 State House Station
August, Maine 04330

Re: LD 880 – An Act Regarding Nondiscrimination in Financial Services

Dear Senator Bailey, Representative Gramlich, and Members of the Committee:

I write to express my opposition to LD 880. As drafted, the bill is overbroad, would create jurisdictional confusion and conflict, and would unnecessarily restrict investor choice. If the bill moves forward, I respectfully request that the bill be amended to exclude the provision of “investment services” from the definition of “financial institution.”

The mission of the Maine Office of Securities is to protect Maine investors through even-handed regulation of the securities industry, which the bill refers to as “investment services.” Authority to regulate the securities industry is set forth in the Maine Uniform Securities Act, 32 M.R.S. § 16101 *et seq.* (“Securities Act”). Title 32 grants sole jurisdiction and authority over securities industry regulation to the Securities Administrator.

My first concern with LD 880 is that it would conflict with the Securities Act by granting securities-related oversight, enforcement and rulemaking authority to the Superintendent of the Bureau of Financial Institutions. The bill’s definition of “financial institution” goes well beyond the current definition in Title 9-B (Financial Institutions) and would sweep in any entity providing “investment services.” This would encompass every broker-dealer and investment adviser firm already subject to regulation by the Office of Securities. Arguably, it could also capture issuers of securities, such as small businesses seeking to raise capital by offering debt or equity securities to the investing public.

LD 880 is also overbroad in that it defines “financial service” as any “service provided by a financial institution.” This wide scope, in conjunction with the expansive definition of “financial institution,” would create unnecessary uncertainty in the security industry and even among companies that would not ordinarily think of themselves as “financial institutions.”

Finally, LD 880 is inconsistent with the traditional disclosure-based regulatory regime for securities and would unnecessarily restrict investors’ ability to choose how to direct their investments. Markets function most effectively when investors are presented with a broad array of

Office Location: 76 Northern Avenue, Gardiner, Maine 04345
Mailing Address: 121 State House Station, Augusta, Maine 04333
www.investors.maine.gov

Phone: (207) 624-8551

TTY: Maine Relay 711

Toll-free in Maine: (877) 624-8551

Fax: (207) 624-8404

investment products and opportunities. Accordingly, securities regulation in the United States typically has focused not on restricting the types of available products and services but on ensuring the disclosure of all material facts and risks so that investors can make informed decisions.

The bill would mandate that financial services must be offered solely based on “quantitative, impartial, risk-based financial standards” and impose additional burdens on financial institutions that consider “nonfinancial, nontraditional or subjective criteria.” As applied to the securities industry, LD 880 could prohibit or restrict the offering of existing investment products and services that seek to reflect investors’ individual preferences¹ and that are already subject to extensive disclosure requirements under state and federal securities laws. Ultimately, it should be the investor’s decision whether to invest in any particular offering, product or strategy.

As Securities Administrator, it is my responsibility to ensure that investment firms and licensed professionals comply with existing laws and regulations, and that investors receive the information and disclosures they need to make their own choices. I believe LD 880 would unnecessarily create statutory conflict and interpretive ambiguity and restrict investor choice.

For all of these reasons, I encourage the Committee to vote Ought Not to Pass or, in the alternative, amend the bill to exclude “investment services” from the definition of “financial services.”

Thank you for your thoughtful consideration.

Sincerely,



Jesse A. Devine
Securities Administrator

¹ For instance, there are numerous exchange-traded funds (“ETFs”) that cater to a wide range of personal, political or religious beliefs, including: Inspire Global Hope Large Cap ETF (ticker symbol BLES), which invests according to biblical values; the Workplace Equality Portfolio (ticker EQLT), which prioritizes companies that support LGBT equality; the SPDR MSCI ACWI Low Carbon Target ETF (ticker LOWC), which selects investments with relatively low carbon footprints; and the Point Bridge America First ETF (ticker MAGA), which focuses on companies that support Republican candidates for federal elective offices.

