



VOICE OF INDEPENDENT FINANCIAL SERVICES FIRMS  
AND INDEPENDENT FINANCIAL ADVISORS

## VIA ELECTRONIC MAIL

March 3, 2016

Ms. Christina Elliott  
Acting Executive Director  
California Secure Choice Retirement Savings Investment Board  
Post Office Box 942809  
Sacramento, CA 94209-0001

RE: Market Analysis, Program Design, and Financial Feasibility Study of the California Secure Choice Retirement Savings Program

Dear Acting Executive Director Elliott:

The Financial Services Institute (FSI)<sup>1</sup> appreciates the opportunity to comment on Overture Financial, LLC's report to the California Secure Choice Retirement Savings Investment Board (Board) on the California Secure Choice Retirement Savings Program. On behalf of FSI's 100 independent broker-dealer member firms doing business in California (including 12 California-based firms) and over 3,400 financial advisor members who reside in state we applaud California for its proactive interest in increasing retirement security for its residents and its desire to expand access to retirement savings products by private sector employees. While FSI shares this goal, we believe that the state and its private sector workers would be better served by leveraging the private savings options currently available rather than taking on the risks and limitations associated with a state-run plan.

The independent financial services community has been an important and active part of the lives of American investors for more than 40 years. In the U.S., there are approximately 167,000 independent financial advisors, which account for approximately 64.5% percent of all producing registered representatives. These financial advisors are self-employed independent contractors, rather than employees of independent broker-dealers.

FSI member firms provide business support to financial advisors in addition to supervising their business practices and arranging for the execution and clearing of customer transactions. Independent financial advisors are small-business owners who typically have strong ties to their communities and know their clients personally. These financial advisors provide comprehensive and affordable financial services that help millions of individuals, families, small businesses, associations, organizations and retirement plans with financial education, planning, implementation, and investment monitoring. Due to their unique business model, FSI member firms and their affiliated financial advisors are especially well positioned to provide Californians with the financial advice, products, and services necessary to achieve their investment goals.

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<sup>1</sup> The Financial Services Institute (FSI) is the only organization advocating solely on behalf of independent financial advisors and independent financial services firms. Since 2004, through advocacy, education and public awareness, FSI has successfully promoted a more responsible regulatory environment for more than 100 independent financial services firm members and their 160,000+ affiliated financial advisors – which comprise over 60% of all producing registered representatives. We effect change through involvement in FINRA governance as well as constructive engagement in the regulatory and legislative processes, working to create a healthier regulatory environment for our members so they can provide affordable, objective advice to hard-working Main Street Americans. For more information, please visit [financialservices.org](http://financialservices.org).

In response to Overture Financial, LLC's report to the Board, we raise the following issues for your consideration as you make recommendations to the legislature:

**State Liability**

In sponsoring a state-run plan for private employees, California could assume significant liability and potentially become a fiduciary for the 6.8 million eligible participants. Additionally, Overture's report states that a no action letter from the SEC may be necessary, underscoring these concerns<sup>2</sup>.

**Alternative Plans**

Offering a marketplace style plan would allow participants to choose from the robust private sector offerings that already exist, avoid state liability, and remove some of the barriers created by a secure choice style plan. For example, the report's recommended Roth IRA would not allow for voluntary employer contributions or matching. We are confident that designing a plan with broader investment options, such as those offered by FSI member advisors, would allow participants to better achieve the ultimate goal of saving more for retirement.

**Cost to Small Businesses**

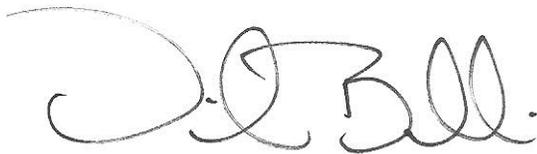
FSI shares the concerns cited in the report regarding the administrative, education and cost burdens mandatory employer participation could place on small businesses<sup>3</sup>. Further, the employer's obligation to collect contributions via payroll deduction could trigger ERISA which would be another state and employer liability concern.

**Promoting Financial Literacy**

The state and its private sector workers would be well served by increasing financial and retirement literacy education and FSI members are always willing to serve as a resource for such programming.

Again, we thank you again for your consideration and we hope that we can serve as a resource to the Board and the legislature as you work to increase retirement savings options for all Californians.

Respectfully submitted,



David T. Bellaire, Esq.  
Executive Vice President & General Counsel

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<sup>2</sup> See Overture Financial, LLC California Secure Choice Market Analysis, Feasibility Study, and Program Design Consultant Services, 17  
<sup>3</sup> See Overture Financial, LLC California Secure Choice Market Analysis, Feasibility Study, and Program Design Consultant Services, 49