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BDA UPDATE: SEC Votes to Move Forward with “Fiduciary” Rule.

On April 19, 2018, the SEC approved by a vote of 4-1 (Commissioner Stein voted no) to advance two proposed rules and an interpretation to address the “fiduciary” rule/best interest standard. They include the following:

- Regulation Best Interest Rule
- Form CRS Relationship Summary Rule
- Investment Adviser Interpretation

The proposed [Regulation Best Interest Rule](#) requires broker-dealers to comply with three specific obligations to meet the best interest standard:

- Disclosure obligation: disclose to the retail customer the key facts about the relationship, including material conflicts of interest;
- Care obligation: exercise reasonable diligence, care, skill, and prudence, to (i) understand the product; (ii) have a reasonable basis to believe that the product is in the retail customer’s best interest; and (iii) have a reasonable basis to believe that a series of transactions is in the retail customer’s best interest; and
- Conflict of interest obligation: establish, maintain and enforce policies and procedures reasonably designed to identify and then at a minimum to disclose and mitigate, or eliminate, material conflicts of interest arising from financial incentives; other material conflicts of interest must be at least disclosed.

The proposed [Form CRS Relationship Summary Rule](#) would:

- Create a new rule under the Exchange Act that would restrict broker-dealers and associated natural persons of broker-dealers, when communicating with a retail investor, from using the term “adviser” or “advisor” in specified circumstances and
- Create new rules under the Exchange Act and Advisers Act that would require broker-dealers and investment advisers, and their associated natural persons and supervised persons, respectively, to disclose, in retail investor communications, the firm’s registration status with the Commission and an associated natural person’s and/or supervised person’s relationship with the firm.

The SEC is requesting comments for the proposed [Investment Adviser Interpretation](#) on:

- Licensing and continuing education requirements for personnel of SEC-registered investment advisers;
- Delivery of account statements to clients with investment advisory accounts; and
- Financial responsibility requirements for SEC-registered investment advisers, including fidelity bonds.

Additional Information

- The SEC Fact Summary sheet on these proposed rules and interpretation can be found [here](#).
- An archived webcast of the hearing can be found [here](#).
- When the rule proposal is officially filed and published in the Federal Register, a 90-day comment period will begin.

BDA Action and Next Steps

The BDA has been closely tracking and actively engaged with the SEC Commissioners and staff on this issue over the last few months.