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06.12.2019 [SEC Adopts Rulemaking Package – “Solely Incidental” Broker-Dealer Exclusion](#)

By Beth Miller

On June 5, 2019, the Securities and Exchange Commission adopted a rulemaking package that applies to investment advisers and broker-dealers.

This is the fourth in a series of articles describing the SEC's rulemaking package. This article addresses the SEC's interpretation of the "Solely Incidental" Broker-Dealer Exclusion. That exclusion allows broker-dealers to provide certain advisory services without becoming subject to regulation as investment advisers under the Advisers Act, as long as those services are "solely incidental" to the broker-dealers' core business. The SEC's new interpretation of this exclusion provides some helpful guidance for broker-dealers and dually-registered firms.

06.11.2019 [SEC Adopts Rulemaking Package – Form CRS](#)

By Beth Miller

On June 5, 2019, the Securities and Exchange Commission adopted a rulemaking package that applies to investment advisers and broker-dealers. These rules include a new set of disclosure requirements to address retail investor confusion over brokerage and investment advisory services.

This is the third in a series of articles describing the SEC's rulemaking package. This article provides an overview of the Form CRS – Relationship Summary portion of the package.

06.11.2019 [SEC Adopts Rulemaking Package – Investment Adviser Standard of Conduct](#)

By Beth Miller

On June 5, 2019, the Securities and Exchange Commission adopted a rulemaking package that applies to investment advisers and broker-dealers. In a series of four articles, Spencer Fane LLP outlines the SEC's rulemaking package. Our first article summarized "Regulation Best Interest" a new standard of conduct governing broker-dealers. In this second article, we describe the SEC's interpretation of the standard of conduct that applies to investment advisers when they engage with their clients.

06.10.2019 [SEC Adopts Rulemaking Package – Regulation Best Interest](#)

By Beth Miller

On June 5, 2019, the Securities and Exchange Commission adopted a rulemaking package that is applicable to investment advisers and broker-dealers. The package includes two final rules and two interpretations – Regulation Best Interest, Investment Adviser Standard of Conduct Interpretation, Form CRS – Relationship Summary, and Solely Incidental Broker-Dealer Exclusion Interpretation. The Regulation Best Interest and Form CRS requirements are effective 60 days after they are published in the Federal Register, with a transition period for compliance that ends on June 30, 2020. The SEC's interpretations are effective immediately upon publication in the Federal Register. In a series of four articles, Spencer Fane LLP outlines the SEC's rulemaking package. This first article describes the Regulation Best Interest portion of the SEC's package.

06.26.2018 [Cyber Liability Insurance for Employee Benefit Plans: Hackers and Malware and Phishing – Oh My!](#)

By Laura L. Fischer

Cyberattacks have managed to invade all walks of life, and employee benefit plans are no exception. When a plan is attacked, the fallout can be overwhelmingly expensive and burdensome to correct. Many plan sponsors are purchasing cyber liability insurance coverage to supplement their data security measures. Understanding those policies – and their exclusions – is important for sponsors who are exploring such coverage.

04.25.2018 [The SEC's Fiduciary Proposal – Form CRS](#)

By Beth Miller

On April 18, the Securities and Exchange Commission issued a proposal package that includes two new rules and one interpretative release. The package consists of three components – Regulation Best Interest, Investment Adviser Standard of Conduct Interpretation, and Form CRS – Relationship Summary. According to the SEC, the proposal is intended to balance investor protections and regulatory requirements with investor access and choice. Each component of the proposal is available for public comment for 90 days after publication in the Federal Register.

In a series of three articles, Spencer Fane LLP describes the SEC's proposal and potential impacts on broker-dealers and investment advisers. This third article describes the Form CRS – Relationship Summary portion of the SEC's fiduciary proposal.

04.23.2018 [The SEC's Fiduciary Proposal – Regulation Best Interest](#)

By Beth Miller

In an open meeting on April 18, the Securities and Exchange Commission voted four to one to issue two new rules and one interpretative release that are intended to provide investor protections and regulatory clarity, as well as investor access and choice. Specifically, the SEC issued Regulation Best Interest, Investment Adviser Standard of Conduct Interpretation, and Form CRS – Relationship Summary. Each component of the SEC's proposal is available for public comment for 90 days after publication in the Federal Register. In a series of three articles, Spencer Fane LLP describes the SEC's proposal and potential impacts on broker-dealers and investment advisers. This first article describes the Regulation Best Interest portion of the SEC's fiduciary proposal.

03.21.2018 [Here We Go Again... Fifth Circuit Strikes Down DOL's Fiduciary Rule](#)

By Gregory L. Ash

In a significant blow to the Department of Labor's controversial regulation re-defining what constitutes an investment-advice fiduciary, a split three-judge panel of the Fifth Circuit Court of Appeals ruled on March 15 that the DOL exceeded its authority when creating the rule. The 2-1 decision of the appellate court strikes down the regulation and its associated prohibited transaction exemptions in their entirety. (*Chamber of Commerce v. U.S. Dept. of Labor* (5th Cir. March 15, 2018)). In its wake, the court's decision leaves even more of the confusion that has plagued the DOL's 2016 rulemaking.

03.08.2018 [Investment Advisers and Conflicts Of Interest](#)

By Beth Miller

The Department of Labor and the Securities and Exchange Commission have expressed concerns regarding potential conflicts of interest that investment advisers do not explicitly disclose. Thus, plan fiduciaries may not be aware of such conflicts when they engage and monitor their plan's investment consultant. These concerns were recently highlighted when the SEC launched an initiative in connection with investment advisers' selection or recommendation of a higher-cost mutual fund share class for their clients when a lower-cost share class of the same fund is available. The SEC's initiative reminds plan fiduciaries of the importance of obtaining appropriate information to fulfill their fiduciary obligations when engaging and monitoring investment advisers.

02.20.2018 [SEC Launches Share Class Selection Disclosure Initiative](#)

By Beth Miller

The Securities and Exchange Commission recently announced a temporary program for investment advisers who may have inadequately disclosed potential conflicts of interest related to their selection or recommendation of mutual fund share classes. Participation in the program, however, is not without its drawbacks.

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