

September 2019

Practice Groups:

*Investment
Management, Hedge
Funds and
Alternative
Investments*

Broker-Dealer

LINKS TO REGULATORY MATERIALS FOR FINANCIAL PROFESSIONAL STANDARDS

SEC Adopting Releases

- New Regulation Best Interest:
 - Title: Regulation Best Interest: The Broker-Dealer Standard of Conduct
 - Publication Date: 7/12/2019
 - Link: <https://www.federalregister.gov/documents/2019/07/12/2019-12164/regulation-best-interest-the-broker-dealer-standard-of-conduct>.
 - [Redline Comparison of Proposed and Final Reg BI Text](#)
- New Form CRS:
 - Title: Form CRS Relationship Summary; Amendments to Form ADV
 - Publication Date: 7/12/2019
 - Link: <https://www.federalregister.gov/documents/2019/07/12/2019-12376/form-crs-relationship-summary-amendments-to-form-adv>.
- An interpretation of an investment adviser's fiduciary duties; and "investment adviser" under the Investment Advisers Act of 1940:
 - Title: Commission Interpretation Regarding Standard of Conduct for Investment Advisers
 - Publication Date: 7/12/2019
 - Link: <https://www.federalregister.gov/documents/2019/07/12/2019-12208/commission-interpretation-regarding-standard-of-conduct-for-investment-advisers>.
- An interpretation of the "solely incidental" prong of the broker-dealer exclusion from the definition of an investment adviser:
 - Title: Commission Interpretation Regarding the Solely Incidental Prong of the Broker-Dealer Exclusion From the Definition of Investment Adviser
 - Publication Date: 7/12/2019
 - Link: <https://www.federalregister.gov/documents/2019/07/12/2019-12209/commission-interpretation-regarding-the-solely-incidental-prong-of-the-broker-dealer-exclusion-from>.

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Press Releases, Statements, Speeches, and Other Materials

- Securities and Exchange Commission, SEC Adopts Rules and Interpretations to Enhance Protections and Preserve Choice for Retail Investors in Their Relationships With Financial Professionals, 6/5/2019, <https://www.sec.gov/news/press-release/2019-89>.
- SEC Chairman Jay Clayton, Securities and Exchange Commission, Statement at the Open Meeting on Commission Actions to Enhance and Clarify the Obligations Financial Professionals Owe to our Main Street Investors, 6/5/2019, <https://www.sec.gov/news/public-statement/statement-clayton-060519-iabd>.
- SEC Commissioner Robert L. Jackson, Securities and Exchange Commission, Statement on Final Rules Governing Investment Advice, 6/5/2019, <https://www.sec.gov/news/public-statement/statement-jackson-060519-iabd>.
- SEC Commissioner Elad L. Roisman, Securities and Exchange Commission, Statement at the Open Meeting on Regulation Best Interest, the Interpretation of the Standard of Conduct for Investment Advisers, the Form CRS Relationship Summary, and the Interpretation of “Solely Incidental”, 6/5/2019, <https://www.sec.gov/news/public-statement/statement-roisman-060519>.
- SEC Commissioner Hester M. Peirce, Securities and Exchange Commission, Statement at the Open Meeting on Regulation Best Interest and Related Actions, 6/5/2019, <https://www.sec.gov/news/public-statement/peirce-statement-open-meeting-regulation-best-interest>.
- SEC Investor Advocate Rick Fleming, Securities and Exchange Commission, Statement Regarding the SEC’s Rulemaking Package for Investment Advisers and Broker-Dealers, 6/5/2019, <https://www.sec.gov/news/public-statement/statement-regarding-sec-rulemaking-package-investment-advisers-broker-dealers>.
- SEC Chairman Jay Clayton, Securities and Exchange Commission, Regulation Best Interest and the Investment Adviser Fiduciary Duty: Two Strong Standards that Protect and Provide Choice for Main Street Investors, 7/8/2019, <https://www.sec.gov/news/speech/clayton-regulation-best-interest-investment-adviser-fiduciary-duty>.
- A Small Entity Compliance Guide, Form CRS Relationship Summary; Amendments to Form ADV, 9/9/2019, <https://www.sec.gov/info/smallbus/secg/form-crs-relationship-summary>.

FINRA Materials

- FINRA Regulatory Notice 11-02 (January 2011), Know Your Customer and Suitability, <https://www.finra.org/sites/default/files/NoticeDocument/p122778.pdf>.

Notable State Initiatives

- Attorneys General from New York, California, Connecticut, Delaware, Maine, New Mexico, Oregon, and the District of Columbia sue SEC over Regulation Best Interest, 9/9/2019.

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- Link to Complaint: http://www.klgateshub.com/files/Publication/4d26c06f-754f-4bb6-aedd-8524005668e1/Presentation/PublicationAttachment/7b4d5dda-1150-45a0-97a3-e6b1345f3dca/Reg_BI_Complaint.pdf.
- Statement from NY Attorney General: <https://ag.ny.gov/press-release/ag-james-leads-coalition-suing-sec-putting-brokers-ahead-investors>.
- Massachusetts Securities Division, Office of the Secretary of the Commonwealth of Massachusetts, Preliminary Solicitation of Public Comments: Fiduciary Conduct Standard for Broker-Dealers, Agents, Investment Advisers, and Investment Adviser Representatives, 6/14/2019, <http://www.sec.state.ma.us/sct/sctfiduciaryconductstandard/fiduciaryconductstandardidx.htm>.
 - Amended Massachusetts Regulation (redline) <http://www.sec.state.ma.us/sct/sctfiduciaryconductstandard/Regulations-as-amended-redline.pdf>.
- New Jersey Bureau of Securities, Fiduciary Duty of Broker-Dealers, Agents, Investment Advisers, and Investment Adviser Representatives, 6/14/2019, <https://www.njconsumeraffairs.gov/Proposals/Pages/bos-04152019-proposal.aspx>.
- Nevada Securities Division, Notice of Draft Regulations and Request for Comment, 1/18/2019, <https://www.nvsos.gov/sos/home/showdocument?id=6156>.

SEC Proposed Rules

- Regulation Best Interest Proposed Rule¹
 - Title: Regulation Best Interest
 - Publication Date: 5/9/2018
 - Link: <https://www.federalregister.gov/documents/2018/05/09/2018-08582/regulation-best-interest>.
- Proposed Form CRS
 - Title: Form CRS Relationship Summary; Amendments to Form ADV; Required Disclosures in Retail Communications and Restrictions on the Use of Certain Names or Titles
 - Publication Date: 5/9/2018
 - Link: <https://www.federalregister.gov/documents/2018/05/09/2018-08583/form-crs-relationship-summary-amendments-to-form-adv-required-disclosures-in-retail-communications>.
- Proposed Commission Interpretation of Investment Adviser Standard of Conduct

¹ See also Staff of the U.S. Securities and Exchange Commission, Study on Investment Advisers and Broker-Dealers As Required by Section 913 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Jan. 2011) ("913 Study") at 8-12, available at www.sec.gov/news/studies/2011/913studyfinal.pdf (discussing the range of brokerage and dealer services provided by broker-dealers).

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- Title: Proposed Commission Interpretation Regarding Standard of Conduct for Investment Advisers; Request for Comment on Enhancing Investment Adviser Regulation
- Publication Date: 5/9/2018
- Link: <https://www.federalregister.gov/documents/2018/05/09/2018-08679/proposed-commission-interpretation-regarding-standard-of-conduct-for-investment-advisers-request-for>.
- Proposed Commission Interpretation of Solely Incidental Prong of the Broker-Dealer Exclusion From the Definition of an Investment Adviser
 - Title: Proposed Commission Interpretation Regarding Standard of Conduct for Investment Advisers; Request for Comment on Enhancing Investment Adviser Regulation
 - Publication Date: 5/9/2018
 - Link: <https://www.federalregister.gov/documents/2018/05/09/2018-08679/proposed-commission-interpretation-regarding-standard-of-conduct-for-investment-advisers-request-for>.

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