

MEMO# 30611

March 1, 2017

SEC Division of Investment Management Publishes Robo-Adviser Guidance

[30611] March 1, 2017 TO: ICI Members

Investment Company Directors

ICI Global Members

Investment Advisers Committee

Pension Committee

SEC Rules Committee

SUBJECTS:

Disclosure

Investment Advisers

RE: SEC Division of Investment Management Publishes Robo-Adviser Guidance

The SEC's Division of Investment Management recently published a Guidance Update on potential considerations for automated advisers or "robo-advisers" as they seek to meet their legal obligations under the Investment Advisers Act of 1940.[\[1\]](#) The staff based the Guidance on observations in coordination with the Office of Compliance Inspections and Examinations, and on feedback received at a Fintech Forum the Commission held in November 2016.

The Guidance notes that robo-advisers typically are registered as investment advisers under the Advisers Act, and explains that robo-advisers, like all registered investment advisers, are subject to the substantive and fiduciary obligations of the Act. The Guidance focuses on the following three areas and provides suggestions for how robo-advisers may address them:

1. The substance and presentation of disclosures to clients about the robo-adviser and the investment advisory services it offers;
2. The obligation to obtain information from clients to support the robo-adviser's duty to provide suitable advice; and
3. The adoption and implementation of effective compliance programs reasonably designed to address particular concerns relevant to providing automated advice.

While the Guidance focuses on the obligations of robo-advisers under the Advisers Act, the staff notes that robo-advisers should consider whether the organization and operation of their programs may raise any issues under other federal securities laws, including the Investment Company Act of 1940, particularly Rule 3a-4 thereunder.

Sarah A. Bessin
Associate General Counsel

Linda French
Counsel

endnotes

[1] See Robo-Advisers, IM Guidance Update No. 2017-02 (February 2017), *available at* <https://www.sec.gov/investment/im-guidance-2017-02.pdf>.

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