

MEMO# 31800

June 11, 2019

ICI Member Call June 21 on SEC Final Rulemakings on Standards of Conduct

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TO:

Investment Advisers Committee
Operations Committee
Pension Committee
Pension Operations Advisory Committee
Principal Underwriters Working Group
SEC Rules Committee
Small Funds Committee
Variable Insurance Products Advisory Committee

RE:

ICI Member Call June 21 on SEC Final Rulemakings on Standards of Conduct

ICI will hold **a members-only call on Friday, June 21st, from 2-3 pm ET**, to discuss the SEC's recently adopted rulemakings on standards of conduct for investment professionals. We will circulate a more detailed memorandum summarizing the final rulemakings prior to next week's call.

If you would like to participate in the call, the dial-in information is:

Dial-in: 888-701-8647

Password: 48118

If you have particular issues or questions you would like us to address on the call, please submit them in writing by Wednesday, June 19th to sarah.bessin@ici.org.

As previously noted, the SEC adopted these rulemakings last week in a 3-1 vote by the Commission. The rulemakings are intended to enhance the protections that apply to retail investors when they receive recommendations from investment professionals.^[1] We have highlighted, below, the two final rules and two interpretations the Commission issued.^[2]

Regulation Best Interest: Regulation Best Interest imposes an enhanced standard of conduct on broker-dealers when they provide recommendations to retail customers regarding a securities transaction or an investment strategy involving securities. Under Regulation Best Interest, a broker-dealer must act in the retail customer's best interest and cannot place its own interests ahead of the customer's interests.

Form CRS Relationship Summary: Investment advisers and broker-dealers will be required to deliver a relationship summary to retail investors at the beginning of the relationship. The relationship summary, which will be in a standardized question-and-answer format, will provide investors with information about a firm's services, fees and costs, conflicts of interest, applicable legal standard of conduct, and disciplinary history.

Interpretation of Standard of Conduct for Investment Advisers: The Commission has issued an interpretation that is intended to reaffirm and, in some cases clarify, the fiduciary duty that an investment adviser owes to its clients under the Investment Advisers Act of 1940 ("Advisers Act").

Interpretation of "Solely Incidental:" The Commission has issued an interpretation of the "broker-dealer exclusion" under the Advisers Act, which provides that a broker or dealer whose performance of advisory services is solely incidental to the conduct of its business as a broker or dealer and who receives no special compensation is excluded from the definition of "investment adviser."

Compliance Dates: The Commission's final rules and forms will be effective 60 days after publication in the *Federal Register*. The interpretations will be effective upon publication in the *Federal Register*. The Commission has provided a compliance date of June 30, 2020 for registered broker-dealers to comply with Regulation Best Interest, and for registered broker-dealers and registered advisers to prepare, deliver to retail investors, and file a relationship summary.

The Commission has established an inter-divisional Standards of Conduct Implementation Committee to assist firms in complying with the new rules, and encourages firms to actively engage with the committee as implementation questions arise.

Sarah A. Bessin
Associate General Counsel

endnotes

[1] The press release and fact sheet summarizing the rulemaking is *available at* <https://www.sec.gov/news/press-release/2019-89>. Commissioner Jackson dissented from the vote. All of the commissioners' statements are *available at* <https://www.sec.gov/news/statements>.

[2] The Commission releases are available at:

Regulation Best Interest: <https://www.sec.gov/rules/final/2019/34-86031.pdf>;

Form CRS Relationship Summary and Form ADV Amendments:

<https://www.sec.gov/rules/final/2019/34-86032.pdf>;

Commission Interpretation Regarding Standard of Conduct for Investment Advisers:

<https://www.sec.gov/rules/interp/2019/ia-5248.pdf>; and

Commission Interpretation Regarding the Solely Incidental Prong of the Broker-Dealer Exclusion from the Definition of Investment Adviser:

<https://www.sec.gov/rules/interp/2019/ia-5249.pdf>.

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