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Industry Groups, Regulators Grapple with Fiduciary Standards for BDs, Private Fund IAs

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Last April, the SEC released proposed rules^[1] related to the standard of care that broker-dealers (“BDs”) owe their customers and issued proposed guidance^[2] related to the standard of care that investment advisers (“IAs”) owe their clients. The SEC has yet to finalize either proposal, but indications are that the SEC is targeting the fourth quarter of 2019 for release of both proposals. During the delay, some state regulators have grown impatient and have sought to move ahead with their own fiduciary duty frameworks. However, those efforts may be hitting some road bumps.

We have released a Legal Alert, available [here](#) (the “Alert”), that provides an overview of recent efforts by regulators and industry groups to enact stricter BD and IA fiduciary obligations, as well as a summary of the central arguments at issue in the BD-IA duty debate. As discussed in the Alert, the tension between regulators and the industry ultimately seems to stem from a disagreement regarding how much responsibility rests with investors to understand the services they are buying and the protections that are included therewith.

If you have any questions about the contents of the Alert or about the regulation of BDs and IAs generally, please feel free to contact us.

By the Investment Management and Broker-Dealer Team at Kilpatrick Townsend & Stockton

Footnotes

^[1] Regulation Best Interest, Securities Exchange Act Release No. 83062 (Apr. 18, 2018), 83 Fed. Reg. 21574 (May 9, 2018), <https://www.sec.gov/rules/proposed/2018/34-83062.pdf>. For more information regarding Regulation Best Interest, please [click here](#) for our previous blog post.

^[2] Proposed Commission Interpretation Regarding Standard of Conduct for Investment Advisers; Request for



Comment on Enhancing Investment Adviser Regulation, Investment Advisers Act Release No. 4889 (Apr. 18, 2018), 83 Fed. Reg. 21203 (May 9, 2018), <https://www.sec.gov/rules/proposed/2018/ia-4889.pdf>.