U.S. Securities and Exchange Commission

SEC Releases Staff Study Recommending a Uniform Fiduciary Standard of Conduct for Broker-Dealers and Investment Advisers

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Washington, D.C., Jan. 22, 2011 — The Securities and Exchange Commission submitted to Congress a staff study recommending a uniform fiduciary standard of conduct for broker-dealers and investment advisers -- no less stringent than currently applied to investment advisers under the Advisers Act -- when those financial professionals provide personalized investment advice about securities to retail investors.

Additional Materials

- SEC Staff Study Under Dodd-Frank Act Section 913
- Joint Statement by Commissioners Casey and Paredes

The study, provided to Congress last night, which looked into obligations and standards of conduct of financial professionals, was required under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

In the study, the staff notes that investment advisers and broker-dealers are regulated extensively under different regulatory regimes. But, many retail investors do not understand and are confused by the roles played by investment advisers and broker-dealers. The study finds that "many investors are also confused by the standards of care that apply to investment advisers and broker-dealers" when providing personalized investment advice about securities.

The study further states that "retail investors should not have to parse through legal distinctions to determine" the type of advice they are entitled to receive. "Instead, retail customers should be protected uniformly when receiving personalized investment advice about securities regardless of whether they choose to work with an investment adviser or a broker-dealer."

At the same time, the study notes that retail investors should "continue to have access to the various fee structures, account options, and types of advice that investment advisers and broker-dealers provide."

As a result, the study "recommends that the Commission . . . adopt and implement, with appropriate guidance, the uniform fiduciary standard of conduct for broker-dealers and investment advisers when providing personalized investment advice about securities to retail customers." The

standard, according to the study, should be "no less stringent than currently applied to investment advisers under [the] Advisers Act."

The study also "recommends that when broker-dealers and investment advisers are performing the same or substantially similar functions, the Commission should consider whether to harmonize the regulatory protections applicable to such functions. Such harmonization should take into account the best elements of each regime and provide meaningful investor protection."

The study concludes that the "staff's recommendations were guided by an effort to establish a uniform standard that provides for the integrity of personalized investment advice given to retail investors. At the same time, the staff's recommendations are intended to minimize cost and disruption and assure that retail investors continue to have access to various investment products and choice among compensation schemes to pay for advice."

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