

BETTER MARKETS – UPDATED FACT SHEET – JUNE 5, 2019

THE SEC’S FINAL “REGULATION BEST INTEREST” IS A BETRAYAL OF ITS DUTY TO PROTECT INVESTORS

Today, the SEC finalized what they’ve been calling “Regulation Best Interest” (Reg BI), along with a set of disclosure requirements (Form CRS) and new guidance explaining the scope of the fiduciary duty under the Investment Advisers Act. All three are indefensibly weak, representing a betrayal of the SEC’s duty to protect investors from conflicts of interest among financial advisers who siphon away tens of billions of dollars of their clients’ hard-earned savings every year.

REG BI:

- Does not actually require advisers to act in the best interest of their clients, instead just adopting the weak and inadequate suitability standard that has been on the books for years.
- Misleads investors into thinking they’re receiving protections the rule doesn’t actually deliver.
- Relies far too much on disclosures that are designed by industry and delivered too late to be helpful, an investor protection approach that has long been recognized as ineffective.
- Imposes no duty on advisers to eliminate a broad range of powerful compensation incentives that will continue to corrupt advice; only prohibits a narrow group of sales contests that create high pressure to sell a specific type of security within a short period of time—incentives already largely prohibited under FINRA rules.
- Fails even to require mitigation of **all** material conflicts of interest.
- Remains too narrow in scope, applying only to specific recommendations and imposing no ongoing duty of care and loyalty absent an express agreement

FORM CRS:

- Remains too confusing, failing to deliver simple, clear, and helpful information about the services that advisers provide, the duties they owe, and the compensation they receive.
- Gives industry “flexibility” in how to convey the disclosures, allowing firms to soothe and confuse investors with what amount to marketing materials.
- Was never adequately tested to ensure that it would be effective.

INVESTMENT ADVISERS ACT GUIDANCE:

- Guts the fiduciary duty for registered investment advisers under the “Investment Advisers Act” by allowing advisers to satisfy what was a heightened duty simply by disclosing their conflicts of interest in a document that their clients are unlikely to read or understand.
- Even dilutes the long-standing duty of investment advisers to monitor accounts over time.
- Effectively abolishes what was once regarded as the gold standard for financial professionals.

THE TAKEAWAY:

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- The SEC has sided squarely with industry, abandoning investors who need a champion to protect them in the financial services marketplace.
- The harm will be substantial and longstanding, as tens of millions of American workers and retirees will continue to suffer at the hands of advisers who put their own financial interest ahead of what's best for their clients—now with the SEC's endorsement.