NOW EFFECTIVE: SEC INTERPRETATIONS RELATING TO THE FIDUCIARY DUTY OF INVESTMENT ADVISERS AND THE "SOLELY INCIDENTAL" EXCLUSION

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US Investment Management Alert

By: Pablo J. Man

At an Open Meeting on 5 June 2019, the Securities and Exchange Commission (SEC) formally adopted: (1) an interpretation of an investment adviser's fiduciary duties; and (2) an interpretation of the “solely incidental” prong of the broker-dealer exclusion from the definition of an “investment adviser” under the Investment Advisers Act of 1940. The interpretations became effective immediately on 12 June 2019, upon publication in the *Federal Register*. We previously published client alerts discussing these interpretations, and those can be found below.

These actions were adopted on the same day as a new Regulation Best Interest, which establishes a new standard of conduct that requires broker-dealers (and their associated persons) to act in the “best interests” of their “retail clients” when recommending securities and investment strategies, and a new Form CRS, which broker-dealers and investment advisers will be required to provide to retail investors. Adopting Releases for Regulation Best Interest and Form CRS were also published on 12 July 2019 and are effective 30 June 2020. Please visit our HUB page for additional information and materials.

- SEC Publishes a Roadmap to Navigating the Investment Adviser Fiduciary Duty
- SEC Outlines Parameters of Permissible Broker-Dealer Advice to Customers

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