nextcapital

Brent J. Fields
Securities and Exchange Commission
100 F Street
NE Washington, DC 20549-1090

VIA EMAIL: rule-comments@sec.gov

Re: File No. S7-07-18: Regulation Best Interest; and File No. S7-08-18: Form CRS Relationship Summary

Dear Mr. Fields:

With over a decade of fierce debate to establish an effective fiduciary regulation, the wealth management industry has been propelled towards a new fiduciary future.

While now defunct, the DOL rule did much to advance the cause of a unified fiduciary standard. A more refined version of the SEC “Regulation Best Interest” proposal would bring the $40 trillion U.S. investor market towards alignment between the client and the financial professionals that serve them.

The SEC’s recent proposal to produce a “best interest standard” for the brokerage industry is commendable, however, it falls short of producing a unified fiduciary framework for the industry. Much work is needed to deliver a practical, client-centric standard. Furthermore, by not moving in this direction, we will continue to observe unintended regulatory and business model complexity—as numerous well-intentioned parties attempt to fill the fiduciary void—including both new CFPB and multiple state-level fiduciary standards.

Ambiguity must also be eliminated. For instance, under the current proposed rule, brokers would be able to hold themselves out as "operating in the clients’ best interest" without being held to a fiduciary standard of care.

A positive proposed change is the requirement to ensure that only fiduciaries are allowed to use the term "advisor" or "adviser" to describe themselves. This "plain English" disclosure is also a benefit for the investor-advisor relationship, which helps further mitigate potential conflicts of interest.

We have an opportunity to create a harmonized best-interest standard that drives regulatory efficiency, market transparency, customer alignment and industry innovation. After reviewing the SEC's proposal, I would like to highlight four general pillars for the Commission's consideration:

1) **Regulatory Efficiency** - The financial services industry would benefit from a harmonized fiduciary standard definition across the investment management industry. It would be enforced using a unified compliance system across federal regulatory agencies, i.e. FINRA, DOL and SEC. The accounts under regulation would be retirement and non-retirement.

2) **Market Transparency** - All parties—consumer, industry and regulators—would benefit from further market transparency, and a consistent naming convention is a common-sense first step. Whereby only fiduciaries may be described as "financial advisors" or "wealth managers", product-based financial professionals would be called investment broker/agent or insurance broker/agent. Establishing a materiality definition as a practical, common sense approach for disclosure purposes would be beneficial to the industry.

3) **Client Alignment** - Like the medical community's Hippocratic Oath, financial professionals should operate in a similar manner with their clients. While we do not believe a conflict-free standard is required, mitigating conflict is imperative. For example, level-fee pricing would create a conflict-neutral model which would still allow firms to provide advice with proprietary products, services, or incremental revenue streams. As part of client engagement practices, we should strongly encourage financial education, but eliminate the use of guidance—education or advice. For example, if an "education" test is given—and a recommendation is provided—then it is deemed advice.

4) **Industry Innovation** - Finally, any new standard should foster and support product-based innovation, so long as it supports fiduciary principles. It must also recognize the potential importance and value of one-time or certain transaction-based services, i.e. brokerage, insurance, tax, etc. The pricing models would be agnostic to fee or commission based-revenue models in accordance with fiduciary principles.

I appreciate the opportunity to participate in this comment period. I have spent significant time with Commissioner Robert Jackson's team, and commend them in their efforts to simultaneously foster innovation and fiduciary principles that benefit the consumer, industry and regulators. I am available to discuss these points or respond to any questions the Commission may have with respect to this letter.

Sincerely,
Rob Foregger, co-founder, NextCapital

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