Craig S. Tyle
Executive Vice President
and General Counsel
Franklin Resources, Inc.
One Franklin Parkway
San Mateo, CA 94403-1906
tel [redacted]
fax [redacted]
email [redacted]

FRANKLIN TEMPLETON
INVESTMENTS

August 6, 2018

By Webform to: https://www.sec.gov/cgi-bin/ruling-comments

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

Re: Proposed Regulation Best Interest (SEC Rel. No. 34-83062; File No. S7-07-18);

Commission Interpretation Regarding Standard of Conduct for Investment Advisers; Request for Comment on Enhancing Investment Adviser Regulation (SEC Rel. No. IA-4889; File No. S7-09-18); and

Form CRS Relationship Summary; Amendments to Form ADV; Required Disclosures in Retail Communications and Restrictions on the use of Certain Names or Titles (SEC Rel. No. 34-83063; File No. S7-08-18)

Dear Mr. Fields,

I write on behalf of Franklin Resources, Inc., a global investment management organization operating as Franklin Templeton Investments ("Franklin"). Headquartered in San Mateo, California, we employ over 9,200 people and have offices in 34 countries. As of June 30, 2018, Franklin had assets under management of approximately $724 billion.

Franklin appreciates the opportunity to respond to the Securities and Exchange Commission's ("SEC") request for comments on proposed Regulation Best Interest ("Reg. BI"), its proposed interpretation of the standard of conduct applicable to investment advisers ("IA Conduct Interpretation"), and the proposed Form CRS Relationship Summary ("Form CRS," and collectively, the "Proposals"). We participated in the development of, and broadly endorse, the comment letters on the Proposals filed by the Investment Company Institute, Investment Adviser Association, and Securities Industry and Financial Markets Association.

As the longstanding primary regulator of broker-dealers and investment advisers, with all of the institutional knowledge and experience that entails, the SEC is best suited to define and regulate the standards of conduct for broker-dealers and investment advisers, and we applaud the SEC's efforts through the Proposals to enhance and clarify these standards. We endorse proposed Reg. BI because it would provide an enhanced, principles-based standard of conduct for broker-dealers that supports continued investor choice in financial services, financial service providers, attendant compensation models (including transaction-based compensation) and investment products. While asset-based fees are appropriate in many circumstances, for some investors—such as those purchasing and holding an investment for the long-term—a transaction-based fee can result in substantial savings. We also appreciate that the proposed enhanced standard would

apply to broker-dealers serving all retail customers, regardless of whether they are saving for retirement or for other purposes, forgoing the potential confusion caused by patchwork regulatory approaches by different regulatory agencies depending on account or investment type (e.g., retirement or non-retirement). To that point, we urge the SEC not only to adopt Reg. BI, but also to work with the U.S. Department of Labor to formulate a streamlined exemption from prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 and Internal Revenue Code of 1986 for broker-dealers subject to proposed Reg. BI and to clarify in the adopting release that Reg. BI would preempt competing state regulations.

We also broadly support the proposed IA Conduct Interpretation as well as proposed Form CRS's purpose of ensuring that retail clients and customers of investment advisers and broker-dealers clearly understand the nature of their relationships to these intermediaries.

While we generally support the Proposals, we suggest certain modifications and clarifications below.

We suggest that the definition of a "retail customer" for purposes of Reg. BI have the same definition as "retail investor" for purposes of Form CRS.

Proposed Reg. BI and Form CRS are highly interrelated: proposed Reg. BI would require broker-dealers to disclose material conflicts of interest to retail customers, and proposed Form CRS would provide the medium for much of this disclosure. However, proposed Reg. BI defines the "retail customers" owed a best interest standard of conduct, including attendant Form CRS disclosure, as persons (natural or juridical) who use a recommendation primarily for personal, family, or household purposes; in contrast, separate proposed rules under the Investment Advisers Act of 1940 ("Advisers Act") and Securities Exchange Act of 1934 would require both broker-dealers and investment advisers to deliver Form CRS to "retail investors," defined as natural persons. We see no reason why the retail public to whom the collective Proposals are addressed should have differing definitions and believe that it may create confusion and compliance challenges. As such, we urge the SEC to adopt identical definitions of "retail customer" and "retail investor" for purposes respectively of Reg. BI and Form CRS, and fully support the Investment Company Institute's separate comments on this matter.

We believe that broker-dealers should be allowed to address material financial conflicts of interest through disclosure where it is appropriate and adequate.

Proposed Reg. BI would require a broker-dealer to establish, maintain, and enforce written policies and procedures reasonably designed to identify and at a minimum disclose, or eliminate, all material conflicts of interest associated with a recommendation. However, Reg. BI goes a step further with respect to material *financial* conflicts of interest, requiring that such conflicts be disclosed *and* mitigated or eliminated. By including this heightened requirement for financial conflicts of interest, Reg. BI would impose a higher standard on broker-dealers than is required of investment advisers with respect to such conflicts, and may act to discourage some broker-dealers from offering higher-compensating products that may otherwise be in retail customers' best interest. We do not believe that the SEC intended either result, and thus we suggest that, in keeping with the principles-based approach the SEC has otherwise taken with Reg. BI, broker-dealers should be permitted to address material financial conflicts of interest through disclosure where they reasonably believe that it is appropriate and adequate.

We seek further clarification of the Care Obligation in Reg. BI relating to the cost of a recommended investment.

We strongly support the flexible, principles-based approach the SEC has taken in proposed Reg. BI, and we appreciate the fact that the SEC explicitly recognized that formulating a recommendation in a customer's

best interest requires analysis not only of cost, but also other critical factors, including a security's or strategy's investment objectives, characteristics, risks and potential benefits, volatility and likely performance in a variety of market conditions. However, the proposing release also states that the SEC preliminarily believes that a broker-dealer could not have a reasonable basis to believe that a recommended security is in the best interest of a retail customer if it is more costly than a "reasonably available alternative" offered by the broker-dealer and if the characteristics of the securities are "otherwise identical." We believe that the SEC intended this interpretation to apply in very narrow circumstances, such as in its example of a broker-dealer recommending a more expensive share class of the same fund over a cheaper share class for which a customer qualifies. But given the rarity of truly identical investments, we are concerned that it could be misinterpreted to require, for example, a broker-dealer to recommend the cheaper of two funds with similar strategies. We therefore urge the SEC to explicitly state in the adopting release that this is not its intent.

We do not believe that it would be appropriate to impose capital requirements on investment advisers.

In the IA Conduct Interpretation, the SEC requests comments on whether investment advisers should be subject to net capital or other financial responsibility requirements similar to broker-dealers. While imposing such requirements would have a minimal effect on advisers that are well capitalized, such as Franklin, we do not believe they would provide additional investor protections from those existing under current regulations. As the SEC noted in the IA Conduct Interpretation, most investment advisers are currently subject to custody requirements under the Advisers Act or the Investment Company Act of 1940, which require maintenance of client assets in a manner designed to protect those assets from fraudulent acts of an adviser or others. We believe that imposing net capital requirements on advisers would impose additional costs on advisers while providing little additional protection.

We suggest investment advisers be permitted to include a relationship summary as part of the current Form ADV Part 2A brochure instead of the proposed Form CRS relationship summary.

The proposed Form CRS relationship summary is intended to be a short document that retail investors may use to better understand the services their financial professionals offer and the terms of their relationships to these firms. While we support the SEC's desired goal of short and easy to understand disclosure of key items, we think that, for investment advisers, this new disclosure document would be largely duplicative of the topics already covered in the investment adviser's Form ADV Part 2A brochure, which is annually updated and offered to all retail clients of the adviser (among its other clients). We are concerned that providing clients with a separate, additional disclosure document (even if only a few pages) will have the unintended result of causing clients to limit their review to the shorter Form CRS (and ignore the Form ADV Part 2A brochure entirely), or even worse, discourage them from reviewing either of the disclosure documents.

We consequently endorse the Investment Adviser Association's suggestion that the SEC permit investment advisers to include the relationship summary as part of the adviser's current Form ADV Part 2A brochure instead of as a separate document. We also suggest the SEC grant investment advisers the flexibility to limit the disclosure in this summary section to succinct information about the fundamental aspects of the relationship and services the adviser provides to its clients. The investment adviser could then provide links or cross-references to the appropriate sections in the brochure (or to the adviser's website or other disclosure materials if more appropriate) to ensure the client is fully informed of the subject matter.

******

We appreciate the SEC's consideration of our comments and would be pleased to respond to any questions from the SEC or its staff.

Very truly yours,

Craig S. Tyle

cc: The Honorable Jay Clayton
The Honorable Kara M. Stein
The Honorable Robert J. Jackson, Jr.
The Honorable Hester M. Peirce
Dalia O. Blass, Director, Division of Investment Management
Brett Redfearn, Director, Division of Trading and Markets
Securities and Exchange Commission