August 7, 2018

Brent J. Fields
Secretary
Securities and Exchange Commission
100 F St., NE
Washington, DC 20549

RE: Proposed Commission Interpretation Regarding Standard of Conduct for Investment Advisers; Request for Comment on Enhancing Investment Adviser Regulation. File Number S7-09-18, Release No. IA-4889

Dear Mr. Fields:

The Financial Planning Coalition ("Coalition")[1] – comprised of Certified Financial Planner Board of Standards ("CFP Board"),[2] the Financial Planning Association® ("FPA®"),[3] and the National Association of Personal Financial Advisors ("NAPFA")[4] – appreciates the opportunity to comment on the Proposed Commission Interpretation Regarding Standard of Conduct for Investment Advisers and Request for Comment on Enhancing Investment Adviser Regulation ("IA Interpretation").[5]

---

[1] The Financial Planning Coalition is a collaboration of the leading national organizations representing the development and advancement of the financial planning profession. Together, the Coalition seeks to educate policymakers about the financial planning profession, to advocate for policy measures that ensure financial planning services are delivered in the best interests of the public, and to enable the public to identify trustworthy financial advisers.

[2] CFP Board is a non-profit certification and standard-setting organization, which sets competency and ethical standards for more than 81,000 CERTIFIED FINANCIAL PLANNER™ professionals throughout the country. CFP® professionals voluntarily agree to comply with CFP Board's rigorous standards including education, examination, experience and ethics, and subject themselves to disciplinary oversight of CFP Board.

[3] FPA® is the largest membership organization for CFP® professionals and those who support the financial planning process in the U.S. with 23,000 members nationwide. With a national network of 88 chapters and state councils, FPA® represents tens of thousands of financial planners, educators and allied professionals involved in all facets of providing financial planning services. FPA® works in alliance with academic leaders, legislative and regulatory bodies, financial services firms and consumer interest organizations to represent its members.

[4] NAPFA is the nation's leading organization of fee-only comprehensive financial planning advisors with more than 3,000 members nationwide. NAPFA members are highly trained professionals who adhere to high professional standards. Each NAPFA advisor annually must sign and renew a Fiduciary Oath and subscribe to NAPFA's Code of Ethics.

[5] Proposed Commission Interpretation Regarding Standard of Conduct for Investment Advisers; Request for Comment on Enhancing Investment Adviser Regulation, 83 Fed. Reg. 21203 (May 9, 2018) (to be codified at 17 C.F.R. pt. 275), *available at* https://www.federalregister.gov/documents/2018/05/09/2018-08679/proposed-commission-interpretation-regarding-standard-of-conduct-for-investment-advisers-request-for (IA Interpretation).

The proposed rulemaking package[6] is a long-awaited step to clarify the standards of conduct for financial services professionals providing personalized investment advice. However, the Coalition is concerned that the IA Interpretation as proposed, may have the unintended effect of weakening the strong fiduciary standard for investment advisers (IAs) established by the Advisers Act and common law. The IA Interpretation should consolidate and clarify long-held court precedent establishing the duties of loyalty and care, making these behavioral obligations the focal point of evaluating IA conduct. A strong and effective IA Interpretation also should restore, and make clear to the public, bright-line distinctions between IAs and broker-dealers, and prevent dually registered broker-dealer/investment advisers ("dual registrants") from "hat-switching."

Moreover, while the Coalition appreciates the Commission's intent to address inequality between the standards applicable to broker-dealers and investment advisers, we urge the Commission not to create new continuing education and licensing requirements without considering existing requirements. Any proposed additions must ensure consistency with current frameworks, while additionally providing for exemptions or substitutions where IAs have private designations or certifications based on stringent education, experience, examination, and ethics requirements. Similarly, the Coalition supports financial and reporting requirements for IAs that are consistent with the requirements inherent in their existing advisory duties.

Importantly, the Coalition cautions the SEC against believing that disclosure is a panacea that cures all conflicts, and we seek to ensure that, by issuing this IA Interpretation, the SEC does not unintentionally dilute the robust fiduciary standard which has been so clearly articulated by the Advisers Act, federal and state courts, and various regulators. In addition to submitting this and two other comment letters (on the Regulation Best Interest and Form CRS proposals), the Coalition would be happy to provide any additional information that might be helpful to the Commission.

I. The Coalition's[7] Experience

The Coalition speaks with one voice to advance the recognition and regulation of financial planning as a distinct and valued profession for the benefit of the public. The cornerstone of the Coalition's mission is to support a robust Fiduciary Standard of Conduct to ensure that financial advice is always in the best interest of clients. It is the Coalition's experience that the Fiduciary Standard of Conduct can be applied across a variety of different business models, including IA and broker-dealer business models.

As a professional standards setting organization, CFP Board develops and enforces business conduct standards for CFP® professionals. CFP Board first addressed a fiduciary standard for CFP® professionals in 2007 when it issued revised *Standards*[8] that provide

[6] In addition to the IA Interpretations at n. 5, *supra*, *see also* Regulation Best Interest, 83 Fed. Reg. 21574 (May 9, 2018) (to be codified at 17 C.F.R. pt. 240), *available at* https://www.federalregister.gov/documents/2018/05/09/2018-08582/regulation-best-interest (Reg BI); *and see* Form CRS Relationship Summary; Amendments to Form ADV; Required Disclosures in Retail Communications and Restrictions on the Use of Certain Names or Titles, 83 Fed. Reg. 21416 (May 9, 2018) (*to be codified at* 17 C.F.R. pts. 240, 249, 275, 279), *available at* https://www.federalregister.gov/documents/2018/05/09/2018-08583/form-crs-relationship-summary-amendments-to-form-adv-required-disclosures-in-retail-communications (Form CRS Proposal).

[7] *See generally*, http://financialplanningcoalition.com/.

[8] CFP Board, "Code of Ethics and Standards of Conduct," A.1., at p. 2 (March 2018; effective Date: October 1, 2019), *available at* https://www.cfp.net/docs/default-source/for-cfp-pros---professional-standards-enforcement/CFP-Board-

that a CFP® professional owes to the client a fiduciary duty when providing financial planning or material elements of financial planning. In 2018, CFP Board adopted revised *Standards,* to become effective in October 2019, under which the fiduciary duty will apply "[a]t all times when providing Financial Advice to a Client,"[9] with financial advice broadly defined to include not only financial planning, but also, among other activities, the provision of investment strategies or advice related to securities, insurance products, derivative contracts, or other financial products.[10]

Most importantly, the fiduciary duty in the revised *Standards* includes both the duty of care and the duty of loyalty.[11] The duty of care requires the CFP® professional to "act with the care, skill, prudence, and diligence that a prudent professional would exercise in light of the Client's goals, risk tolerance, objectives, and financial and personal circumstances."[12] The duty of loyalty has three components and requires the CFP® professional to:

i. Place the interests of the Client above the interests of the CFP® professional and the CFP® Professional's Firm;
ii. Avoid Conflicts of Interest, or fully disclose Material Conflicts of Interest to the Client, obtain the Client's informed consent, and properly manage the conflict; and
iii. Act without regard to the financial or other interests of the CFP® professional, the CFP® Professional's Firm, or any individual or entity other than the Client, which means that a CFP® professional acting under a Conflict of Interest continues to have a duty to act in the best interests of the Client and place the Client's interests above the CFP® professional's.

Under the CFP Board *Standards*, CFP® professionals cannot simply disclose away material conflicts of interest. Even when disclosure is required, the revised CFP Board *Standards* couple it with proper *management* of conflicts.

II. Deficiencies of the IA Interpretation and Proposed Additional Obligations

A. The Danger of Setting Disclosure as the Floor

Due to an IA's ongoing relationship of trust with a client, an IA is expected to adhere to a Fiduciary Standard of Conduct consisting of the duty of loyalty and the duty of care. The IA Interpretation attempts to reduce decades of federal legal opinions into the single concept

---

Code-and-Standards.
[9] *See* n. 10, *supra*.
[10] *Standards*, at p. 14 (Definitions of "Financial Advice" and "Financial Assets"). Note that the Coalition acknowledges that the SEC's jurisdiction under proposed Reg BI is limited to transactions or advice pertaining to securities by both the Advisers Act (governing the offering of advice or the making of recommendation on securities) and the Securities Exchange Act of 1934 (a "broker" is engaged in the business of effecting transaction in securities for the account of others; a "dealer" is engaged in the business of buying and selling securities for his own account).
[11] The revised CFP Board *Standards* impose a comprehensive, three-part fiduciary duty comprised of (i) the duty of loyalty, (ii) the duty of care, and (iii) the duty to follow client instructions. *See Standards*, at p. 2. The concepts underlying the first two requirements are based, in large part, on the long history of federal court precedent interpreting the Advisers Act.
[12] *Standards*, at p. 2.

that an IA must "at a minimum"[13] provide full and fair disclosure to obtain the client's informed consent. However, this long-held fiduciary standard cannot faithfully be summarized without including behavioral expectations that place the client's interests above the IA's own. In a practical sense, setting this minimum standard would signal to IA firms and dual registrants that they could meet the barest of thresholds and still remain in compliance with the IA Interpretation. If given this "minimum" choice, some IA firms may be encouraged to resort to meeting the floor as a path of least resistance to achieving compliance. As a fiduciary, an IA should not be able to disclose away his or her fiduciary duties and obligations.

1. <u>Pre-1940: A Standard Based on Behavior</u>

Before the enactment of the Advisers Act, it was understood that so-called "investment counsel," who subsequently came to be categorized as IAs, were subject to a higher standard of care than brokers who simply sold securities. This standard of care required some type of action on the part of investment counsel, whether to avoid being influenced by personal monetary gain or establish fee structures conducive to a conflict-free, or at least a conflict-reduced, relationship with a client.

The basic function of investment counsel organizations was to furnish "to clients on a personal basis competent, unbiased, and continuous advice regarding the sound management of their investments."[14] This goal contemplated a deeper client advisor relationship that justified a higher level of protection.[15]

During a study pursuant to the Public Utility Holding Company Act of 1935, which led to the enactment of the Advisers Act, one large and prestigious asset management and mutual fund company acknowledged that impartial and disinterested personalized investment advice cannot be provided if, for example, an investment banker acts as a quasi-investment counsel with respect to securities. The company recognized, at least theoretically, that a subconscious bias may persist when "representing both the corporation who was borrowing money and the investor who was lending."[16]

2. <u>The Advisers Act Through the Lens of *Capital Gains* and *Arleen Hughes*</u>

The Advisers Act does not inherently outline a detailed fiduciary standard of conduct. The fiduciary duty stems from court interpretations of the anti-fraud provisions found in Section 206 of the Advisers Act. Since 1963, this body of case law has supported the principle that IAs must go beyond mere disclosure of conflicts of interest and instead place the interests of the IA's client first. Additionally, the common law provides that IAs are expected to take certain <u>*actions*</u> before and after disclosures are made, including prior avoidance of conflicts and subsequent mitigation of existing and fully disclosed conflicts.

---

[13] IA Interpretation, at pp. 21207-21208.

[14] U.S. Sec. & Exch. Comm'n, Report on Investment Trusts and Investment Companies, H.R. Doc. No. 76-477, at p. 28 (2d Sess. 1939), *available at* https://babel.hathitrust.org/cgi/pt?id=mdp.35112101732404;view=1up;seq=1.

[15] For instance, Illinois and Michigan rules and regulations of the 1930s specified that investment counselors or advice must be "strictly on the basis of fiduciary relationship." Illinois explained the underlying meaning of this fiduciary relationship: In no event shall such counsel or advice be influenced or colored by the element of profit or compensation through the sale or trade-out of any security held by the investor. Any advice or counsel given to an investor respecting the positon of a security held by such investor must be solely on the basis of interest or pecuniary profit to the investor.

[16] *Id*., at p. 24.

a. *SEC v. Capital Gains*

In the seminal *Capital Gains* case, the Supreme Court was asked to consider the single issue of whether the Commission has the authority to obtain an injunction compelling an IA to disclose to his clients a practice known as "scalping."[17] In addition to establishing that the Advisers Act imposes a fiduciary duty, the *Capital Gains* court found that the SEC indeed possesses authority to compel disclosure, given that failure to disclose is one of the types of fraud or deceit which the Advisers Act aimed to prevent.

The Supreme Court also acknowledged that broader behavior, such as conflict elimination, was considered an expected and accepted industry practice within the context of the Advisers Act. The majority in *Capital Gains* found that since the passage of the Advisers Act, federal courts demanded several responsibilities of IAs, alongside and in addition to full and fair disclosure of all material facts. In addition to disclosure, IAs have "an affirmative duty of 'utmost good faith, ***and*** [disclosure] […] ***as well as*** an affirmative obligation 'to employ reasonable care to avoid misleading.'"[18] Although the court did not rule on this directly, there appeared a common thread in the context of the Advisers Act as a whole that some additional action in the form of avoidance or elimination of conflicts should be taken in addition to or alongside of disclosure.

b. *In re Arleen Hughes*

The Commission has long imposed a framework based on behavioral duties that relies on disclosure as a last resort. The basis of this framework, as it applies to prohibited transactions, is outlined in the anti-fraud provisions in Section 206 of the Advisers Act, which prohibits principal trading as a general rule, but allows for exceptions if disclosure is made.[19] The SEC articulated this model in its case against Arleen Hughes,[20] where the SEC had to determine the extent to which disclosure of a principal transaction must be made to a client. The SEC found that where an investment adviser, who is a fiduciary, has created a relationship of trust and confidence with her clients by holding herself out as performing confidential advisory services for a fee, she must disclose all material circumstances fully and completely. In this particular case, the investment adviser was a dual registrant who was holding herself out as a trusted investment counselor, making adherence to a strict fiduciary standard even more important.

The SEC, however, envisioned that this full and complete disclosure would only come after the investment adviser already had taken certain steps to meet her duty of loyalty obligations, namely, avoidance of principal transactions:

> The very function of furnishing investment counsel on a fee basis—learning the personal and intimate details of the financial affairs of clients and making

[17] Sec. & Exch. Comm'n v. Capital Gains Research Bureau, Inc., 375 U.S. 180, 181, 84 S. Ct. 275, 277, 11 L. Ed. 2d 237 (1963) (The court describes scalping as the practice of "purchasing shares of a security for [a registered investment adviser's] own account shortly before recommending that security for long-term investment and then immediately selling the shares at a profit upon the rise in the market price following the recommendation.")
[18] *Id*., at 194 (emphasis added).
[19] 15 U.S.C. § 80b–6(3) ("Prohibited transactions by investment advisers [include] acting as principal for his own account […] without disclosing to such client in writing before the completion of such transaction").
[20] In the Matter of Arleen W. Hughes Doing Bus. As E. W. Hughes & Co., 27 S.E.C. 629 (Feb. 18, 1948).

> recommendations as to purchases and sales of securities—cultivates a confidential and intimate relationship and imposes a duty upon the registrant to ***act in the best interests of her clients and to make only such recommendations as will best serve such interest***. In brief, it is her duty to ***act in behalf of her clients***.[21]

Before any disclosure is made, the SEC cautioned that actions must have already been taken to avoid or eliminate conflicts or completely take the IA's interests out of the equation:

> Since loyalty to his trust is the first duty which a fiduciary owes to his principal, it is the general rule that a fiduciary ***must not put himself into a position where his own interests may come in conflict with those of his principal***.[22]

In effect, this would mean that certain transactions, such as principal trading, could be prohibited. In fact, the SEC suggested that principal trading is the exception and not the rule, but it can occur where informed consent is given.[23] That is the point at which disclosure enters the picture.

The same framework is offered by a leading scholar on the subject of fiduciaries. At its core, "fiduciary law imposes substantive prohibitions on the entrusted party (the fiduciaries)."[24] Generally, "fiduciaries may engage in prohibited activities if, and only if, they receive the consent of the entrustors, after full disclosure."[25]

3. Current Case Law Supports a Behavior-Focused Model

More recent case law also supports the idea that before resorting to disclosure, IAs must identify conflicts and eliminate or mitigate them under a holistic approach to the duty of care and duty of loyalty inherent in the fiduciary standard under the Advisers Act. The federal fiduciary standard requires that an IA act in the "best interest" of its advisory client at all times.[26] Indeed, Section 206 of the Advisers Act prohibits advisers from engaging in transactions that operate as fraud upon any client and establishes a statutory fiduciary duty for investment advisers; this duty can be violated by what is done, what is said, and what is not said.[27]

---

[21] *Id*., at p. 4.
[22] Id., at p.4.
[23] *Id*. ("To prevent any conflict and the possible subordination of this duty to act solely for the benefit of his principal, a fiduciary at common law is forbidden to deal as an adverse party with his principal. An exception is made, however, where the principal gives his informed consent to such dealings.")
[24] Tamar Frankel, "The failure of Investor Protection by Disclosure," at p. 425, University of Cincinnati Law Review, Vol. 81, Issue 2, Article 2 (May 30, 2013).
[25] *Id*.
[26] United States v. Miller, 833 F.3d 274, 280 (3d Cir. 2016); Belmont v. MB Inv. Partners, Inc., 708 F.3d 470, 503 (3d Cir. 2013)
[27] Sec. & Exch. Comm'n v. Nutmeg Grp., LLC, 162 F. Supp. 3d 754 (N.D. Ill. 2016), reconsideration denied, No. 09-CV-1775, 2016 WL 3023291 (N.D. Ill. May 24, 2016)

B. The Risks of Imposing Additional Obligations on IAs

The IA Interpretation presents a separate set of issues in that it suggests that the Commission, at some point in the future, may codify a licensing and CE regime for IAs without taking into consideration requirements already in place. Imposing licensing and CE requirements on professionals who have voluntarily chosen to comply with and be regulated by private-professional organizations such as the CFP® certification instituted by CFP Board would be duplicative, burdensome, and unnecessary.[28] The SEC should refrain from mandating regimes that overlap with existing certifications.

For example, CE requirements are part of the comprehensive certification process awarded by CFP Board. The CFP® certification requires substantial education and professional experience, a rigorous exam designed to test for competencies in financial planning, *continuing education* which meets the CFP Board's requirements, and high professional and ethical standards enforced through a disciplinary process with publicly available sanctions, including documented revocation of the CFP® certification. Notably, the CFP Board is accredited by the National Commission for Certifying Agencies ("NCCA"). The NCCA standards require demonstration of a valid and reliable process for development, implementation, maintenance, and governance of certification programs. The CFP® certification is one of only six financial services designations accredited by NCCA.

III. The Coalition's Recommendations

The Coalition offers the following recommendations to address perceived shortcomings in the proposed IA Interpretation. Likewise, the Coalition's experience with strong CFP® certification requirements, including continuing education, can serve as an example in implementing additional requirements with minimal duplication.

A. Investment Advisers Should Not Be Able to Disclose Away Conflicts

The Coalition is concerned that the proposed IA Interpretation minimizes the types of behavior that are required in addition to disclosure. Focusing on disclosure does not improve the fiduciary relationship in that it fails to address conflicts, which are the root cause of investor harm. Fiduciary behavior and business practices are effective tools to combat conflicts.

The SEC should be consistent in requiring avoidance, elimination, or mitigation of conflicts. This is especially true in the case of dual registrants, where "hat-switching" can lead to an obfuscation of genuine conflicts. In many cases, the investor may not know in which capacity a dually registered person is acting at any given point in time during the relationship.

The IA Interpretation should be as simple and clean as possible. The interpretation should: (i) limit IAs' ability to disclose away conflicts; and (ii) highlight the differences between fiduciary and non-fiduciary relationships, whether in the context of dual registrants or not, and how they affect a customer. The SEC could achieve these two goals by codifying the entire range of fiduciary duty and conduct that federal courts have found to be

[28] A comprehensive list of designations is available at: https://www.finra.org/investors/professional-designations.

required under Section 206 of the Advisers Act.

An effective way to achieve these goals is to adopt a nuanced approach, rather than allowing disclosure "at a minimum." A behavior-based approach has been recognized by the SEC, courts, and other experts as behavior focused and responsibility based, with disclosures as a secondary resort in the event that avoidance, elimination or mitigation fails.

B. Continuing Education Requirements Should Recognize Existing CE Programs

If the Commission chooses to move forward with establishing licensing and CE requirements, it should provide exemptive relief to professionals who are part of associations, or hold designations or certifications that require CE. The SEC should only accept CE as defined by associations,[29] credentialing bodies, or certification-granting organizations with rigorous and well-established CE approval requirements to ensure investor protection and adherence to high standards. For example, an exemption for CFP® professionals would be appropriate based on CFP Board's rigorous standards for CE program approval. CFP Board has stringent CE requirements to obtain and maintain the CFP® certification, but it is not a CE provider. Rather, CFP Board has well-defined rules and guidelines for approval of CE programs presented by third-party vendors. A federal continuing education regime should serve to fill in the gaps[30] and not create overlapping requirements on those financial professionals who already are subject to CE requirements.

For example, CFP® professionals should not be required to fulfill additional education and licensing requirements. To ensure that CFP® professionals remain well-versed in comprehensive financial planning once they have attained CFP® certification, they are required to complete 30 credit hours of CE accepted by CFP Board every two years, including two hours of CFP Board-approved Ethics CE.[31]

C. Continuing Education Requirements Should Cover a Specific Subset of Financial Professionals Under a Well-Defined Licensing Structure

It is unclear whether the SEC will require IA representatives who are not currently subject to a CE requirement to register with the Commission or an SEC-appointed organization as part of a stopgap CE or licensing program. If registration is required, the SEC should create a reliable and transparent evaluation process. For example, registered individuals should be required to clearly describe their designations or certifications, current CE status, conflicts of interests, compensation methods, and other related information. Much of this same information already is required of state-registered IA representatives (IARs). Importantly, experience[32] should be required in addition to a thorough competency

---

[29] FPA and NAPFA are qualified CE providers.

[30] The North American Securities Administrators Association (NASAA) recently issued a survey regarding CE for Investment Adviser Representatives with the goal of "closing this investor protection gap," rather than building a new CE regime from scratch. NASAA's experience could serve as an example in SEC rulemaking. See NASAA, "NASAA Survey Regarding Continuing Education for Investment Adviser Representatives," *available at* http://www.nasaa.org/industry-resources/investment-advisers/nasaa-survey-regarding-continuing-education-for-investment-adviser-representatives/.

[31] CFP Board, "Continuing Education," *available at* https://www.cfp.net/for-cfp-professionals/continuing-education.

[32] *See generally* CFP Board, "Experience Requirement," available at https://www.cfp.net/become-a-cfp-professional/cfp-certification-requirements/experience-requirement ("CFP® certification indicates to the public your ability to provide financial planning unsupervised, and CFP Board requires you to have 6,000 hours of professional experience related to the financial planning process, or 4,000 hours of Apprenticeship experience that meets

examination.

As stated previously, any SEC-mandated CE regime should include exemptions for SEC-sanctioned CE programs already in existence and be structured as a stopgap measure only. In the event that the SEC is considering licensing and CE, the SEC should consider that most states impose registration, licensing, or qualification requirements on investment adviser representatives who have a place of business in the state, regardless of whether the investment adviser is registered with the Commission or the state.[33] This system should be left mostly intact. Only in case of omissions or gaps in this system, should the SEC step in with its own licensing requirements for IA representatives.

Important to any SEC licensing and registration structure is the SEC's authority to determine what constitutes compliant CE content, delivery, and timing. One example of an appropriate structure for such a CE program is the Internal Revenue Service's (IRS) Enrolled Agent CE regime.[34] Similarly to the IRS requirements, an SEC-mandated CE program could have a total CE requirement due every three years, but also a minimum requirement for each year to avoid over-concentration of CE hours in any given period and ensure a consistent pace of improvement of skills and knowledge.

D. Additional Observations on Provision of Account Statements and Financial Responsibility

The SEC acknowledged that although "many advisers do provide clients with account statements, advisers are not directly required to provide account statements under the federal securities laws."[35] The IA Interpretation proposes that IAs be required to provide account statements with detailed fees on a regular basis to clients, much like broker-dealers are required to provide to customers with confirmations of transactions listing commissions and at least quarterly account statements showing securities positions, trading fees and other charges. The SEC also proposed net capital requirements for IAs, similar to those required of broker-dealers, to maintain liquidity. Currently IAs are not subject to such net capital requirements.

The IA Interpretation's proposed additions regarding account statements and financial responsibility requirements will result in redundancies and unnecessary burdens. For example, most advisory fees already are listed in detail as an expense on account statements.

Moreover, with respect to account statements and financial capital requirements, the IA Interpretation should take into account the requirements imposed on IAs pursuant to the Custody Rule to ensure that any additional requirements do not conflict or overlap.[36]

The SEC recognizes that broker-dealers already are subject to stringent net capital requirements due, in part, to the arms-length nature of their transactional services. But the nature of the advisory business is different and does not lend itself to the abuses against

additional requirements.")

[33] IA Interpretation, at p. 21212.

[34] IRS, "FAQs: Enrolled Agent Continuing Education Requirements," *available at* https://www.irs.gov/tax-professionals/faqs-enrolled-agent-continuing-education-requirements.

[35] IA Interpretation, at p. 21213.

[36] Advisers Act Rule 206(4)-2.

which net capital requirements are meant to protect. Registered investment adviser firms deliver advice, just like law firms and Certified Public Accountant firms. Those types of firms do not have capital requirements because they are unnecessary in professional services firms that thrive on advice-based relationships. Imposing broker-dealer-like net capital requirements on IAs would severely harm small IA businesses and would raise significant barriers for new entrants who wish operate under that business model.

The Coalition appreciates the opportunity to comment on the IA Interpretation, as well as the SEC's proposed Regulation Best Interest and Form CRS. If you have any questions regarding this comment letter, the corresponding comment letters, or the Coalition, please contact Maureen Thompson, Vice President of Public Policy, CFP Board, at [redacted] or [redacted].

Sincerely,

Kevin R. Keller, CAE	Lauren Schadle, CAE	Geoffrey Brown, CAE
Chief Executive Officer	Executive Director/CEO	Chief Executive Officer
CFP Board	FPA®	NAPFA