**U.S. Securities and Exchange Commission**

**Asset Management Advisory Committee**

**Final Recommendations for Evolution of Advice**

**November 3, 2021**

The pace of innovation in the provision of advice and guidance to individual investors, fueled by advances in the combination of data and technology,[1] holds great promise for increasing financial inclusion and accelerating the democratization of products and services previously reserved for the more affluent. However, certain technological advances could raise potential risks,[2] highlighting the need to ensure investor protection is being addressed. It is in that spirit that the Asset Management Advisory Committee submits the following principles for consideration by the U.S. Securities and Exchange Commission ("Commission" or "SEC") as it evolves its approach to regulating the application of this innovation:

1. ***Encourage Innovation that Benefits Investors*** – Any regulation in this space should support continued innovation of rapidly-developing technologies that encourage beneficial interactions and improved outcomes for investors,[3] and efforts should be made to reconsider whether existing regulations are an impediment to, or inconsistent with, innovation, including but not limited to rules governing the use of electronic storage media to maintain and preserve required broker-dealer records,[4] and expansion of the use of electronic delivery for regulatory communications.

2. ***Focus on Transparency*** – Consideration should be given as to whether current disclosures regarding data practices are effective and sufficient or whether modifications or additional disclosure may be warranted to better inform investors of the use the data being utilized to obtain the results provided.

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[1] *See* Pew Research Center, Mobile Fact Sheet (2019), at https://www.pewresearch.org/internet/fact-sheet/mobile (as of April 2021, 97% of Americans owned a cellphone of some kind, up from 62% in 2002; the percentage did not deviate for those Americans earning less than $30,000 per year. Of those Americans over 65, 92% owned cellphones). The Pew Research Center further reports that, as of early 2021, 85% of Americans say they go online daily. *See* https://www.pewresearch.org/fact-tank/2021/03/26/about-three-in-ten-u-s-adults-say-they-are-almost-constantly-online.

[2] *See* SEC Request for Information and Comment on Broker-Dealer and Investment Adviser Digital Engagement Practices, Related Tools and Methods, and Regulatory Considerations and Potential Approaches Information and Comments on Investment Adviser Use of Technology to Develop and Provide Investment Advice, Release Nos. 34-92766; IA-5833; File No. S7-10-21 (August 27, 2021), at 46, available at https://www.sec.gov/rules/other/2021/34-92766.pdf ("SEC Request").

[3] *See* SEC Request at 8-9 ("The use of DEPs [digital engagement practices] carries both potential benefits and risks for retail investors. Simplified user interfaces and game-like features have been credited with making investment platforms more accessible to retail investors (in particular, younger retail investors), and assisting in the development and implementation of investor education tools. Others have noted that DEPs can encourage retail investors to increase their contributions to retirement accounts and to engage in other activities that are traditionally viewed as wealth-building exercises.").

[4] 17 CFR 240.17a-5 (Reports to be made by certain brokers and dealers).

3. ***Provide Data Controls*** – Investors should be able to decide whether to provide specific data to a particular party, monitor who has access and revoke access as needed. The process for opting out should be easily understandable and executable.

4. ***Consider Disparities in Technology-based Prompts*** – Industry participants should consider employing controls to identify and mitigate any embedded biases or disparities in the application of technology-based prompts being directed to retail investors that encourages investor behavior that promotes conflicts of interest, with reference to existing rules and guidance from the Commission and FINRA. The Commission may want to consider further study to consider whether additional guidance regarding participant compliance with this principle is necessary.

5. ***Regulation Should Be Technology Neutral Where Appropriate*** – To the extent additional regulation is necessary, it should be technology neutral where appropriate and not based solely on the presence or type of technology used in providing investment advice, which could create an unlevel playing field.