

Corporate & Financial Weekly Digest

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SEC Recommends Uniform Fiduciary Standard for Investment Advisers and Broker-Dealers Advising Retail Customers about Securities

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On January 21, the Securities and Exchange Commission issued a Study in which the SEC staff recommended establishing a uniform fiduciary standard for investment advisers and broker-dealers providing personalized investment advice about securities to retail customers that is consistent with the standard that currently applies to investment advisers. The standard, according to the Study, should be no less stringent than the standard currently applied to investment advisers under Sections 206(1) and (2) of the Investment Advisers Act of 1940, and would require broker-dealers and investment advisers to act in the best interest of retail customers without regard to their own financial or other interest. The Study also urges the SEC to issue interpretive guidance and to engage in rulemaking to address the duties of loyalty and care that are part of this uniform fiduciary standard.

According to the Study, which was required under the Dodd-Frank Wall Street Reform and Consumer Protection Act, the staff of the SEC was guided by an effort to establish a uniform standard providing for the integrity of personalized investment advice given to retail investors. The SEC staff's recommendations also include suggestions for implementing the new standard and for harmonizing the broker-dealer and investment adviser regulatory regimes and discuss a variety of topics, including disclosure, principal trading, investor education, advertising and other communications, use of finders and solicitors, regulatory oversight, licensing and registration of firms and their associated persons, recordkeeping and the interpretation of key phrases, such as what "personalized investment advice about securities" means. Notably, the Study is under criticism from two SEC commissioners, who issued a press release the day after the Study's release opposing the Study's release to Congress as drafted.

Click [here](#) to read the Study.

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