

To Our Clients and Friends

Memorandum

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SEC Adopts Rules and Interpretations Addressing Standards of Conduct for Investment Advisers and Broker-Dealers

At an Open Meeting on June 5, 2019, the U.S. Securities and Exchange Commission (the “SEC”) voted on the highly anticipated rulemaking package addressing investment adviser and broker-dealer standards of conduct.¹ The package includes final versions of (i) the SEC’s interpretation of the standard of conduct for investment advisers (“Fiduciary Duty Interpretation”), (ii) new rules to require registered investment advisers and registered broker-dealers to provide to retail investors a customer relationship summary (“Form CRS”), (iii) a new rule establishing a standard of conduct for broker-dealers when recommending securities to retail customers (“Regulation Best Interest”), and (iv) the SEC’s interpretation of the “solely incidental” prong of the broker-dealer exclusion from the definition of investment adviser in the Investment Advisers Act of 1940 (the “Advisers Act”).²

Proposed versions of the Fiduciary Duty Interpretation, Form CRS, and Regulation Best Interest were published for comment last April.³ The SEC did not issue a proposed version of its interpretation of “solely incidental” (although it did request comment on the meaning of “solely incidental” as part of the 2018 rulemaking package). In the coming days, we will publish a more fulsome description of today’s rulemaking package.

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¹ [SEC Adopts Rules and Interpretations to Enhance Protections and Preserve Choice for Retail Investors in Their Relationships With Financial Professionals](#), SEC Press Release (Jun. 5, 2019).

² Section 202(a)(11)(C) of the Advisers Act excludes from the definition of “investment adviser” a broker-dealer that provides investment advice that is “solely incidental” to the conduct of its broker-dealer business and receives no special compensation for such advice.

³ [Proposed Commission Interpretation Regarding Standard of Conduct for Investment Advisers; Request for Comment on Enhancing Investment Adviser Regulation](#), Release No. IA-4889 (Apr. 18, 2018); [Form CRS Relationship Summary; Amendments to Form ADV; Required Disclosures in Retail Communications and Restrictions on the use of Certain Names or Titles](#), Release No. 34-83063; IA-4888 (Apr. 18, 2018); [Regulation Best Interest](#), Release No. 34-83062 (Apr. 18, 2018). See Fried Frank Client Memorandum, [SEC Issues Proposed Rules and Interpretive Guidance Addressing Standards of Conduct for Broker-Dealers and Investment Advisers](#) (Apr. 23, 2018).

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This memorandum is not intended to provide legal advice, and no legal or business decision should be based on its contents. If you have any questions about the contents of this memorandum, please call your regular Fried Frank contact or an attorney listed below:

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